

PROJET DE LOI

ENTITLED

The Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XXVI, p. 264; as amended by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 (Ordres en Conseil Vol. XXXI, p. 171); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010). See also the Children (Guernsey and Alderney) Law, 2008 (No. XIV of 2009). This Law is prospectively amended by the Reform (Guernsey) (Amendment) (No. 2) Law, 2019 (No. ** of 2020).

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The Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978

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PROJET DE LOI

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The Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978

THE STATES, in pursuance of their Resolution of the twenty-eighth day of October, nineteen hundred and seventy-six, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

PART I

REDUCTION OF AGE OF MAJORITY AND RELATED MATTERS

Reduction of age of majority from 20 to 18.

1. (1) As from the date on which this Part of this Law comes into force a person shall attain full age on attaining the age of eighteen instead of on attaining the age of twenty; and a person shall attain full age on that date if he has then already attained the age of eighteen but not the age of twenty.

(2) The foregoing subsection applies for the purposes of any rule of law, and, in the absence of a definition or of any indication of a contrary intention, for the construction in the English language of "**full age**", "**infant**", "**infancy**", "**minor**", "**minority**", and in the French language of "**âge de la majorité**", "**enfant**", "**mineur**", "**minorité**" and similar expressions in those languages in –

- (a) any provision of an enactment, statutory instrument or an Order of the Royal Court, whether passed or made before, on or after the date on which this Part of this

Law comes into force, and

- (b) any agreement, will, trust instrument, settlement or other instrument of whatever nature (not being a provision of an enactment, statutory instrument or Order of the Royal Court) made on or after that date.

(3) In the definition of the expression "infant" in subsection (1) of section 1 of the Adoption (Guernsey) Law, 1960, for the reference to twenty years of age there shall be substituted a reference to eighteen years of age.

(4) This section shall not affect the construction of the expression "full age" in section eight of the Reform (Guernsey) Law, 1948^b.

(5) ...

(6) Notwithstanding any rule of law, a will or codicil executed before the date on which this Part of this Law comes into force shall not be treated for the purposes of this section as made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

NOTES

In section 1, subsection (5) was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 24 (shown, incorrectly, in the printed version of the 2008 Law as paragraph 23), with effect from 4th January, 2010, this Law is one of those specific enactments that the States

^b Ordres en Conseil Vol. XIII, p. 288.

may repeal, amend, extend, adapt, modify or disapply, and make transitional and savings provisions in relation to, by Ordinance made under the said section 123.

Time at which a person reaches a particular age.

2. (1) The time at which a person attains a particular age expressed in years shall be the commencement of the relevant anniversary of the date of his birth.

(2) This section applies only where the relevant anniversary falls on a date after that on which this Part of this Law comes into force, and, in relation to any enactment, statutory instrument or Order of the Royal Court, agreement, will, trust instrument, settlement or other instrument, has effect subject to any provision therein.

Persons under full age may be described as minors.

3. A person who is not of full age may be described as a minor instead of as an infant.

PART II
GUARDIANSHIP OF MINORS

General principles

Principle on which questions relating to custody, upbringing etc. of minors are to be decided.

4. ...

NOTE

Part II, and section 4 thereof, were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to,

the 2009 Ordinance.

Equality of parental rights.

5. ...

NOTE

Section 5 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Appointment, removal and powers of guardians

Rights of surviving parent as to guardianship.

6. ...

NOTE

Section 6 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Power of father and mother to appoint testamentary guardians.

7. ...

NOTE

Section 7 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009

Ordinance.

Power of Ordinary Court to appoint guardian for minor having no parent etc.

8. ...

NOTE

Section 8 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.¹

Power of Ordinary Court to remove or replace guardian.

9. ...

NOTE

Section 9 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Disputes between joint guardians.

10. ...

NOTE

Section 10 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Power of guardians.

11. ...

NOTE

Section 11 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Saving for existing guardians.

12. ...

NOTE

Section 12 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Orders for custody and maintenance

Orders for custody and maintenance on application of mother or father.

13. ...

NOTE

Section 13 was repealed by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 37, Schedule 2, with effect from 5th December, 1989, subject to the transitional and savings provisions in section 38 of the 1988 Law.

Additional provisions as to orders under section thirteen.

14. ...

NOTE

Section 14 was repealed by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 37, Schedule 2, with effect from 5th December, 1989, subject to the transitional and savings provisions in section 38 of the 1988 Law.

Orders for custody and maintenance where person is guardian to exclusion of surviving parent.

15. ...

NOTE

Section 15 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Orders for custody and maintenance where joint guardians disagree.

16. ...

NOTE

Section 16 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Orders for maintenance of persons between 18 and 21.

17. ...

NOTE

Section 17 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.²

Evidence on applications under section thirteen of this Law.

18. ...

NOTE

Section 18 was repealed by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 37, Schedule 2, with effect from 5th December, 1989, subject to the transitional and savings provisions in section 38 of the 1988 Law.

Enforcement of orders for custody and maintenance.

19. ...

NOTE

Section 19 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Illegitimate children

Application of Law to illegitimate children.

20. (1) ...

(2) ...

(3) ...

(4) ...

(5) ...

(6) ...

NOTES

In section 20,

subsection (1), subsection (2), subsection (5) and subsection (6)³ were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance;

subsection (3) and subsection (4) were repealed by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 37, Schedule 2, with effect from 5th December, 1989, subject to the transitional and savings provisions in section 38 of the 1988 Law.

Procedure and appeals

Procedure.

21. ...

NOTE

Section 21 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Appeals.

22. ...

NOTE

Section 22 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

PART III
GENERAL

Service of notices.

23. ...

NOTE

Section 23 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Interpretation.

24. (1) In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the Court of Appeal" means the Court of Appeal established under

the provisions of the Court of Appeal (Guernsey) Law, 1961^d,

"enactment" includes an Ordinance whether made under an Order in Council or otherwise,

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"the Magistrate's Court" means the Magistrate's Court established under the provisions of the Magistrate's Court (Guernsey) Law, 1954^e,

"maintenance" includes education,

"statutory instrument" includes any regulation, order, rule, byelaw or other instrument of a similar nature, applying to persons in general or to any substantial class or classes of persons, made in this Island under any Act of Parliament, Order in Council, Ordinance, or Order of the Royal Court.

(2) Except in so far as the context otherwise requires, any reference in this Law to any other enactment shall be construed as a reference to that enactment as repealed and re-enacted, amended, extended or applied by or under any other enactment including this Law.

NOTE

The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.

^d Ordres en Conseil Vol. XVIII, p. 315.

^e Ordres en Conseil Vol. XVI, p. 103.

Citation.

25. This Law may be cited as the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978.

Commencement.

26. This Law shall come into force on such day as the States may by Ordinance appoint and different days may be so appointed for the coming into force of different Parts of this Law.

NOTE

The Law was brought into force on 1st July, 1978 by the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Commencement No. 1) Ordinance, 1978, section 1, save for Part II, brought into force on 17th October, 1978 by the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Commencement No. 2) Ordinance, 1978, section 1.

SCHEDULE

Section one

Adoption orders

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NOTE

The Schedule was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 21, with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

¹ Prior to its repeal, section 8 was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004; pursuant to that amendment, the functions, rights and liabilities of the Children Board and of its President formerly arising under or by virtue of this Law were transferred to and vested in, respectively, the Health and Social Services Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 8, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

² Prior to its repeal, section 17 was amended by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 37, Schedule 2, with effect from 5th December, 1989, subject to the transitional and savings provisions in section 38 of the 1988 Law.

³ Prior to its repeal, subsection (6) was amended by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 36, Schedule 1, with effect from 5th December, 1989.