

PROJET DE LOI

ENTITLED

The Guardianship of Minors (Alderney) Law, 1990 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XXXII, p. 177; as amended by 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).

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The Guardianship of Minors (Alderney) Law, 1990

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The Guardianship of Minors (Alderney) Law, 1990

THE STATES, in pursuance of their Resolution of the 14th day of June, 1989, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

PART I

GUARDIANSHIP OF MINORS

General principles

Principle on which questions relating to custody, up-bringing etc. of minors are to be decided.

1. ...

NOTES

Section 1 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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 46 (shown, incorrectly, in the printed version of the 2008 Law as paragraph 45), with effect from 4th January, 2010, this Law is one of those specific enactments that the States 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.

Equality of parental rights.

2. ...

NOTE

Section 2 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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.

3. ...

NOTE

Section 3 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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.

4. ...

NOTE

Section 4 was repealed by the Children (Consequential Amendments etc.)

(Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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 Court to appoint guardian for minor having no parent etc.

5. ...

NOTE

Section 5 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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 Court to remove or replace guardian.

6. ...

NOTE

Section 6 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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.

7. ...

NOTE

Section 7 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I,

paragraph 26(a), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Powers of guardians.

8. ...

NOTE

Section 8 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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.

9. ...

NOTE

Section 9 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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 person is guardian to exclusion of surviving parent.

10. ...

NOTE

Section 10 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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.

11. ...

NOTE

Section 11 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Enforcement of orders for custody and maintenance.

12. ...

NOTE

Section 12 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(a), 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.

13. (1) Subject to the succeeding provisions of this section, [...] in

relation to the administration of any property belonging to or held on trust for [a minor who is illegitimate] or the application of income of any such property, the mother of such minor shall have the same rights and authority as the father and mother of a minor who is legitimate shall have on or after the date of the coming into force of this Part of this Law.

(2) An agreement for the mother of a minor who is illegitimate to give up in whole or in part in relation to such minor, the rights and authority referred to in the last preceding subsection shall be unenforceable.

(3) ...

(4) ...

(5) For the purposes of this Part of this Law, a minor who is illegitimate shall be treated as if he were the legitimate issue of his mother.

(6) ...

NOTES

In section 13,

first, subsection (3), subsection (4) and subsection (6) and, second, the words omitted in the first pair of square brackets in subsection (1) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 26(c) and paragraph 26(b)(i), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance;

the words in the second pair of square brackets in subsection (1) were substituted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(b)(ii), with effect from 4th January, 2010.

Procedure and appeals

Procedure.

14. (1) The Court shall so far as is consistent with the due dispatch of business, separate the hearing and determination of proceedings under this Part of this Law from other business.

(2) Proceedings in the Court under this Part of this Law shall be heard and determined in camera.

Appeals.

15. Part II of the Court of Alderney (Appeals) Law, 1969^a shall apply to appeals from any decision of the Court under this Law.

**PART II
GENERAL**

Service of notices.

16. Any notice which may be served for the purpose of this Law shall be validly served on any person, if delivered to him, left, or sent by registered post or by recorded delivery service to him at his usual or last known place of abode.

Interpretation.

17. (1) In this Law, unless the context otherwise requires –

"the Court" means the Court of Alderney,

^a Ordres en Conseil Vol. XXII, p. 192.

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

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

[...]

"**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

In section 17, the words omitted in square brackets were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 26(d), with effect from 4th January, 2010.

Citation.

18. This Law may be cited as the Guardianship of Minors (Alderney) Law, 1990.

Commencement.

19. 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 6th October, 1990 by the Guardianship of Minors (Alderney) Law, 1990 (Commencement) Ordinance, 1990, section 1.
