

PROJET DE LOI

ENTITLED

The Juvenile Court (Guernsey) Law, 1989 *

[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. XXXI, p. 326; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406). See also the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009). The Law was repealed by the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008 (No. VI of 2009).

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The Juvenile Court (Guernsey) Law, 1989

THE STATES, in pursuance of their Resolution of the 27th day of February, 1986, 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 Guernsey.

PART I GENERAL PROVISIONS

Establishment and functions of the Juvenile Court.

1. (1) When dealing with a juvenile under subsection (2) of this section the Magistrate's Court shall be known as the Juvenile Court and constituted in accordance with section 4 of this Law.

(2) Subject to section 2 of this Law the Juvenile Court shall deal with the following –

- (a) juveniles charged with offences, and
- (b) juveniles in need of care, protection or control under the Law entitled "Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes"^a registered on the

^a Ordres en Conseil Vol. V, p. 345.

10th February, 1917, and the Children and Young Persons (Guernsey) Law, 1967^b, and

- (c) the securing of regular attendance at school of a juvenile brought before it under section 21(2) of the Education (Guernsey) Law, 1970^c.

NOTE

The Law is prospectively repealed by the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008.

Residual jurisdiction of the Magistrate's Court.

2. (1) Notwithstanding section 1(2) of this Law, the Magistrate's Court (not sitting as the Juvenile Court) –

- (a) shall hear any charge made jointly against a juvenile and a person who has attained the age of 17 years,
- (b) may hear any charge made against a juvenile if a person who has attained the age of 17 years is charged at the same time with –
 - (i) aiding, abetting, causing, counselling, procuring, allowing or permitting the offence alleged to have been committed by the juvenile, or

^b Ordres en Conseil Vol. XXI, p. 34; Vol. XXIII, p. 3.

^c Ordres en Conseil Vol. XXII, p. 318.

- (ii) an offence arising out of circumstances the same as, or connected with those giving rise to, the offence alleged to have been committed by the juvenile,
- (c) shall hear any committal proceedings involving both a juvenile and a person who has attained the age of 17 years,
- (d) may continue to hear and determine any proceedings in the course of which it appears for the first time that a person to whom they relate is a juvenile.

(2) The Magistrate's Court (not sitting as the Juvenile Court) by or before which a juvenile has been found guilty of an offence shall remit the case to the Juvenile Court for the Juvenile to be sentenced, as if he had been tried and found guilty by that court, unless the Magistrate's Court is satisfied –

- (a) that the case can be properly dealt with by means of an order –
 - (i) discharging the juvenile absolutely or conditionally,
 - (ii) for the payment of a fine, damages, compensation or costs,
 - (iii) requiring his parent or guardian to enter into a recognisance to take proper care and

guardianship of him,

- (iv) disqualifying or suspending him from holding or obtaining a driving licence, or

- (b) that it would be undesirable to remit the case.

General considerations in all Courts.

3. Every court in dealing with a juvenile who is brought before it, either as an offender or otherwise, shall have regard to the welfare of the juvenile, and shall in a proper case take steps for removing him from undesirable surroundings and for securing that proper provision is made for his education and training.

PART II

**CONSTITUTION OF THE JUVENILE COURT AND THE JUVENILE COURT
PANEL**

Constitution of the Juvenile Court.

4. (1) The Juvenile Court shall consist of the Magistrate or Acting Magistrate, who shall act as Chairman, and two other Members; and subject to subsection (2) of this section, shall include a man and a woman.

(2) Notwithstanding subsection (1) of this section the Magistrate or Acting Magistrate may constitute the Juvenile Court sitting alone –

- (a) for the purpose of any adjournment, remand or other interim order, or
- (b) if for any reason he considers it expedient in the interests of justice.

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this section to the "Magistrate" and "Acting Magistrate" shall be construed as references to, respectively, a Judge and a Deputy Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

The Juvenile Court Panel.

5. (1) Members of the Juvenile Court shall be persons selected by the Magistrate or Acting Magistrate from a Panel of at least six people appointed, from time to time, by the Royal Court sitting as a Full Court.

(2) A person shall not be appointed to the Panel after the age of 60 years.

(3) A person appointed to the Panel under subsection (1) of this section shall serve for a period of five years, unless he is previously relieved of his appointment by the Royal Court.

(4) The Members of the Juvenile Court Panel shall meet under the chairmanship of the Magistrate or Acting Magistrate as often as necessary, but not less than twice a year, in order to make arrangements connected with the holding of Juvenile Courts and discuss questions connected with the work of Juvenile Courts.

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this section to the "Magistrate" and "Acting Magistrate" shall be construed as references to, respectively, a

Judge and a Deputy Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

Procedure in the Juvenile Court.

6. (1) A sitting of the Juvenile Court shall not be held in the same room in which a sitting of another court has been or will be held within one hour before or after, unless it is considered expedient by the Chairman in the interests of justice.

(2) No person shall be present during the hearing of any matter by the Juvenile Court except for –

- (a) members and officers of that court, and
- (b) the parties to that matter, their parents or guardians, their Advocates, and any witnesses and other persons directly concerned in it, and
- (c) bona fide representatives of newspapers, news-agencies or sound or television broadcasting companies, and
- (d) such other persons as the court may specially authorise to be present.

(3) The decision of the Juvenile Court in any matter shall be that of the majority of the Members of the court, pronounced by the Chairman, or by any other Member at the request of the Chairman; and no other Member shall make a separate pronouncement in relation to that decision.

(4) The Chairman shall be the sole judge of law and questions of procedure in the Juvenile Court.

(5) The Royal Court, sitting as a Full Court, may from time to time make rules governing the practice and procedure of the Juvenile Court.

NOTE

The following Orders have been made by the Royal Court under section 6:

*Juvenile Court (Criminal Cases) Rules, 1990;
Juvenile Court (Criminal Cases) (Amendment) Rules, 1994.*

PART III

APPEALS, AMENDMENTS AND MISCELLANEOUS PROVISIONS

Appeals.

7. The provisions of the Police Court Appeals Law, 1939^d shall apply to appeals from the Juvenile Court as those provisions apply to and in respect of appeals from the Magistrate's Court.

NOTE

The Police Court Appeals Law, 1939 has since been repealed by the Magistrate's Court (Criminal Appeals) Law, 1988, section 10(2), with effect from 4th September, 1989, subject to the savings in section 11 of the 1988 Law.

Amendments.

^d Ordres en Conseil Vol. XI, p. 461; Vol. XXVII, p. 445.

8. (1) In the Children and Young Persons (Guernsey) Law, 1967^e –
- (a) subject to the exceptions in subsection (2)(b) of this section, for "Magistrate's Court" wherever appearing substitute "Juvenile Court",
 - (b) the exceptions are section 18(1) and 18(2)(a)(i), section 23(2), section 28(4)(a), section 30(1) and 30(4) and section 31(1),
 - (c) in section 18(1) and 18(2)(a)(i), section 23(2), section 24(4)(a) and section 30(1) the words "or Juvenile Court" are added immediately after "the Magistrate's Court" wherever those words appear,
 - (d) in section 1(1) immediately after the definition of "the Island of Guernsey" there is inserted the definition –

 "**Juvenile**" means a person under the age of 17 years,"
 - (e) in section 5(1) thereof the following paragraph is added –

 "(c) to make a supervision order in respect of him.",
 - (f) in section 5(2) for "probation order" substitute

^e Ordres en Conseil Vol. XXI, p. 34; Vol. XXIII, p. 3.

"supervision order",

- (g) immediately after section 5 there is inserted the following additional section –

"Failure to comply with the requirements of a supervision order made in criminal proceedings."

5A. If it is proved to the satisfaction of the Juvenile Court on the application of the supervisor that the supervised person has failed to comply with any requirement contained in a supervision order made under section 5 of this Law, that court may, whether or not it makes any other order, order him to pay a fine not exceeding level 4 on the uniform scale."

- (h) for section 20(1) and the marginal note to section 20 there is substituted –

"Provisions as to attaining the age of 17 years."

20. (1) Where proceedings in respect of a juvenile are begun before a court for an offence and he attains the age of 17 years before the conclusion of the proceedings, the court may deal with the case and make any order which it could have made if he had not attained that age."¹

Remands in custody of juveniles.

9. (1) Where a court considers it necessary to remand a juvenile in custody, it may order –

- (a) that he be detained in the States Prison, or
- (b) that he be detained in the custody of the States [Health and Social Services Department] in any place maintained for that purpose by the Board or the States,

(2) Where a juvenile is remanded in custody under the provisions of subsection (1) of this section he shall be deemed to be in lawful custody.

(3) Where a juvenile is remanded in custody in accordance with paragraph (1)(b) of this section the Board shall take such steps as it considers necessary or expedient to keep him in custody and shall produce him before the court when ordered to do so.

NOTES

In section 9, the words in square brackets were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

The functions, rights and liabilities of the Children Board and of its President 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.

Extent and Interpretation.

10. (1) The provisions of this Law shall have effect in the Island of Guernsey.

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

(3) In this Law, unless the context otherwise requires –

"juvenile" means a person under the age of 17 years,

"Magistrate" means the Magistrate or any Acting Magistrate appointed under the Magistrate's Court (Guernsey) Law, 1954^f,

"Royal Court" means the Royal Court of Guernsey sitting as a Full Court,

"States [Health and Social Services Department]" means the [Department] established under section 1 of "The States Children Board and Public Assistance (Amendment) (Guernsey) Law, 1970"^g,

"supervision order" means an order under section 5 of the Children and Young Persons (Guernsey) Law, 1967^h placing a juvenile under the supervision of a probation officer or of some other person appointed for that purpose by the Juvenile Court.

NOTES

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

^g Ordres es Conseil Vol. XXII, p. 523.

^h Ordres en Conseil Vol. XXI, p. 34; Vol. XXIII, p. 3.

In section 10, the words in square brackets in the definition of the expression "States Health and Social Services Department" in subsection (3) were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

The functions, rights and liabilities of the Children Board and of its President 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.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this section to the "Magistrate" and "Acting Magistrate" shall be construed as references to, respectively, a Judge and a Deputy Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

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.

Transitional provisions.

11. The Magistrate's Court (not sitting as the Juvenile Court) shall continue to hear and determine proceedings involving juveniles begun before the coming into force of this Law as if this Law, other than sections 2(2) and 3 had not been passed.

Citation and commencement.

12. (1) This Law may be cited as the Juvenile Court (Guernsey) Law, 1989.

(2) This Law shall come into force on such day as the States may by Ordinance appoint.

NOTE

The Law was brought into force on 1st October, 1990 by the Juvenile Court (Guernsey) Law, 1989 (Commencement) Ordinance, 1990.

REPEALED

¹ For subsequent amendments, see the consolidated text of the Children and Young Persons (Guernsey) Law, 1967.