

PROJET DE LOI

ENTITLED

The Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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. 171; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992 (No. II of 1992); the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1994 (No. XXIV of 1994, Ordres en Conseil Vol. XXXV(2), p. 619); the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1995 (No. I of 1995, Ordres en Conseil Vol. XXXVI, p. 61); the Same-Sex Marriage (Guernsey) Law, 2016 (No. II of 2016); 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); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 (No. XIII of 2017). This Law is applied, in part, by the Loi relative à l'Entretien des Enfants Illégitimes, 1927 (Ordres en Conseil Vol. VIII, p. 130) to certain orders thereunder. See also the Loi relative à l'Entretien des Enfants Illégitimes, 1927 (*supra*); the Bills of Exchange (Guernsey) Law, 1958 (Ordres en Conseil Vol. XVII, p. 384); the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Children (Guernsey and Alderney) Law, 2008 (No. XIV of 2009); the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009).

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The Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988

THE STATES, in pursuance of their Resolutions of the 27th day of May, 1987, and the 27th day of January, 1988, 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

[Financial provision and separation]

Grounds of application.

1. [(1)] Either party to a marriage may apply to the Magistrate's Court ("**the court**") for an order under section 2(1) on the ground that the other party to the marriage –

- (a) has failed to provide reasonable maintenance for the applicant,
- (b) has failed to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family,
- (c) has behaved in such a way that the applicant cannot reasonably be expected to live with him,

- (d) has deserted the applicant, or
- (e) has committed adultery and the applicant finds it intolerable to live with him.

[(2) Only conduct between the respondent and a person of the opposite sex may constitute adultery for the purposes of subsection (1)(e).]

NOTES

In the heading to Part I, the words in square brackets were substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(b), with effect from 25th August, 1992.

In section 1, subsection (1) was re-numbered and subsection (2) inserted by the Same-Sex Marriage (Guernsey) Law, 2016, Schedule, paragraph 10, with effect from 2nd May, 2017.

The following cases have referred to this Law:

Price v. Price (1993) 13.GLJ.21;

In the matter of F (an infant) (2005) (Unreported, Magistrate's Court, 7th July) (Guernsey Judgment No 39/2005); 2005–06 GLR Note 12;

A v. B (2008) (Unreported, Royal Court, 4th April) (Guernsey Judgment No 17/2008); 2007-08 GLR Note 22.

In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 29 (shown, incorrectly, in the printed version of the 2008 Law as paragraph 28), 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.

[Orders for financial provision and separation.]

2. (1) Where an applicant for an order under this section satisfies the court of any ground mentioned in section 1, the court, subject to the provisions of this Law, may order that –

- (a) the respondent shall –
 - (i) make to the applicant such periodical payments, for such term, as may be specified,
 - (ii) pay to the applicant such lump sum as may be specified,
 - (iii) make to the applicant for the benefit of a child of the family, or to such a child, such periodical payments, for such term, as may be specified,
 - (iv) pay to the applicant for the benefit of a child of the family, or to such a child, such lump sum as may be specified,
- (b) the applicant be no longer bound to reside with the respondent (such an order having effect in all respects as a decree of judicial separation granted by the Royal Court).

(2) Without prejudice to the generality of subsection (1)(a), an order thereunder for the payment of a lump sum may be made to enable the applicant to meet any liability or expense reasonably incurred before the making of the order in maintaining the applicant or any child of the family.

(3) The amount of a lump sum required to be paid by an order under subsection (1)(a) shall not exceed £1,000 or such other sum as the States may prescribe by Ordinance.

NOTES

In section 2, the marginal note thereto was substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(c), with effect from 25th August, 1992.

Subsection (2) and (3) of this section are applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as they apply respectively in relation to an order under subsection (1)(a)(iii) or (iv) of this section of this Law.

In accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, the references in subsection (2) and (3) of this section (however expressed) to the parties to the marriage or to any child of the family shall be construed respectively as references to the mother and putative father and to the child in question.

Matters to which court is to have regard.

3. (1) The court, in deciding whether and in what manner to exercise its powers under section 2, shall have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained full age.

(2) As regards the exercise of its powers under section 2(1)(a)(i) or (ii), the court shall in particular have regard to the following matters –

- (a) the income, earning capacity, property and other financial resources which each party to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect either party to take steps to acquire,
- (b) the financial needs, obligations and responsibilities

which each party has or is likely to have in the foreseeable future,

- (c) the standard of living enjoyed by the parties before the occurrence of the conduct which is alleged as the ground of the application,
- (d) the age of each party and the duration of the marriage,
- (e) any physical or mental disability of either party,
- (f) the contributions which each party has made or is likely to make in the foreseeable future to the welfare of the family, including any contribution made by looking after the home or caring for the family,
- (g) the conduct of each party if that conduct is such that it would, in the opinion of the court, be inequitable to disregard it.

(3) As regards the exercise of its powers under section 2(1)(a)(iii) or (iv), the court shall in particular have regard to the following matters –

- (a) the financial needs of the child,
- (b) the income, earning capacity (if any), property and other financial resources of the child,
- (c) any physical or mental disability of the child,
- (d) the standard of living enjoyed by the family before the

occurrence of the conduct which is alleged as the ground of the application,

- (e) the manner in which the child was being and in which the parties to the marriage expected him to be educated or trained,
- (f) the matters mentioned in subsections (2)(a) and (b) of this section.

(4) As regards the exercise of its powers under section 2 in favour of a child of the family who is not a child of the respondent, the court shall also have regard –

- (a) to whether the respondent has assumed any responsibility for the child's maintenance and, if he did, to the extent to which, and the basis on which, he assumed that responsibility and to the length of time during which he discharged that responsibility,
- (b) to whether in assuming and discharging that responsibility the respondent did so knowing that the child was not his own,
- (c) to the liability of any other person to maintain the child.

NOTES

Subsection (1) and (3) of this section are applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as they apply respectively in relation to an order under section 2(1)(a)(iii) or

(iv) of this Law.

The following case has referred to section 3:

A v. B (2008) (Unreported, Royal Court, 4th April) (Guernsey Judgment No 17/2008); 2007-08 GLR Note 22.

In accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, the references in subsection (1) and (3) of this section (however expressed) to the parties to the marriage or to any child of the family shall be construed respectively as references to the mother and putative father and to the child in question.

Duration of orders for financial provision.

4. (1) The term to be specified in an order under section 2(1)(a)(i) shall not begin before the date of the application for the order.

(2) An order under section 2(1)(a)(i) ceases to have effect upon –

- (a) the remarriage of the party in whose favour the order was made, or
- (b) the death of either party to the marriage,

whichever is earlier.

(3) The term to be specified in an order under section 2(1)(a)(iii) shall not begin before the date of the application for the order or, subject to subsection (5), extend beyond the date on which the child attains full age.

(4) Subject to subsection (5), no order shall be made under section 2(1)(a)(iii) or (iv) for the benefit of a child who has attained full age.

(5) The term to be specified in an order under section 2(1)(a)(iii)

may extend beyond the date on which the child attains full age, and an order may be made under section 2(1)(a)(iii) or (iv) for the benefit of a child who has attained full age, if it appears to the court –

- (a) that the child is, or will be, or would be if the term were so extended or such an order were made, receiving instruction at an educational establishment or undergoing training for a trade, profession or vocation, whether or not he is also, or will also be, in gainful employment, or
- (b) that there are special circumstances that justify so extending the term or making such an order.

(6) An order under section 2(1)(a)(iii) ceases to have effect upon the death of the child or the person liable to make the payments under the order.

(7) Where an order ceases to have effect under subsection (2) or (6), the order may nevertheless be relied upon in relation to any arrears due under it.

NOTES

Subsection (4) to (7) of this section are applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as they apply respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

In accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, the references in subsection (4) to (7) of this section (however expressed) to the parties to the marriage or to any child of the family shall be construed respectively as references to the mother and putative father and to the child in question.

Orders which have been agreed.

5. (1) Either party to a marriage may apply to the court for an order under this section on the ground that he or the other party to the marriage has agreed to make the financial provision specified in the application, and on such an application, subject to subsection (3), the court may order that the applicant or the respondent, as the case may be, shall make the financial provision specified in the application provided it is satisfied that –

- (a) the applicant or the respondent, as the case may be, has agreed to make that provision, and
- (b) it would not be contrary to the interests of justice to make the order.

(2) In this section "**financial provision**" means –

- (a) the making of periodical payments by one party to the other,
- (b) the payment of a lump sum by one party to the other,
- (c) the making of periodical payments by one party to a child of the family or to the other party for the benefit of such a child,
- (d) the payment of a lump sum by one party to a child of the family or to the other party for the benefit of such a child.

(3) The court shall not order the making of any financial provision

under subsection (1) to or for the benefit of a child unless it considers that the provision provides for, or makes a proper contribution towards, the financial needs of the child.

(4) Where on an application under subsection (1) the court decides that –

- (a) it would be contrary to the interests of justice to order the making of the financial provision specified in the application, or
- (b) the financial provision specified in the application, where it is to be made to or for the benefit of a child, does not provide for, or make a proper contribution towards, the financial needs of the child,

then, if both the parties agree to the making of some other financial provision proposed by the court, the court may order that the applicant or the respondent, as the case may be, shall make that provision.

(5) Section 4 applies to an order –

- (a) for the making of the financial provision mentioned in subsection (2)(a) as it applies to an order under section 2(1)(a)(i),
- (b) for the making of the financial provision mentioned in subsection (2)(c) or (d), as it applies respectively to an order under section 2(1)(a)(iii) or (iv).

(6) Sections 2(2) and (3) apply to an order for the making of the

financial provision mentioned in subsections (2)(b) and (d) as they apply to an order under section 2(1)(a).

Orders where parties are living apart by agreement.

6. (1) Where the parties to a marriage have lived apart for not less than 3 months, neither party having deserted the other, and one party has made periodical payments for the benefit of the other party or of a child of the family, the other party may apply to the court for an order under this section, specifying in the application, so far as he is able, the aggregate amount of the payments made during the period of 3 months immediately preceding the application.

(2) Where on an application under subsection (1) the court is satisfied that the respondent to the application has made the payments specified in the application, the court may, subject to the provisions of this Law, order that the respondent shall –

- (a) make to the applicant such periodical payments, for such term, as may be specified,
- (b) make to the applicant for the benefit of a child of the family, or to such a child, such periodical payments, for such term, as may be specified,

but, subject to subsection (4), the court shall not order the respondent to make payments which exceed in aggregate in any period of 3 months the aggregate amount paid by him for the benefit of the applicant or the child, as the case may be, during the period of 3 months immediately preceding the application.

(3) Section 3 applies to an application under subsection (1) as it applies to an application under section 1.

- (4) Where the court considers that an order under subsection (2) –
 - (a) would not provide reasonable maintenance for the applicant, or
 - (b) if the application relates to a child, would not provide or make a proper contribution towards reasonable maintenance for the child,

the court may treat the application as if it were an application under section 1.

- (5) Section 4 –
 - (a) applies to an order under subsection (2)(a) as it applies to an order under section 2(1)(a)(i), and
 - (b) applies to an order under subsection (2)(b) as it applies to an order under section 2(1)(a)(iii).

PART II

Custody, etc., of children

Custody of children.

7. ...

NOTE

Section 7 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.¹

Supervision of children.

8. ...

NOTE

Section 8 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.²

Committal of children to care.

9. ...

NOTE

Section 9 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.³

Maintenance for children.

10. (1) Where the court [has made] an order under [section 17 of the Children (Guernsey and Alderney) Law, 2008 in respect of a child, or any order varying such an order,] of a child [...] the court may make such order regarding the making of financial provision as it thinks fit.

(2) Where the court [has made] [a community parenting order under the Children (Guernsey and Alderney) Law, 2008], the court may make such order regarding the making of periodical payments to the Board or to the child as it thinks fit.

(3) The court, in deciding whether and in what manner to make an order under subsection (1) or (2), shall have regard to all the circumstances of the case, including the matters to which it is required to have regard under section 3(3); and, in deciding whether to make an order against a party to the marriage who is not a parent of the child, shall also have regard to the matters to which it is required to have regard under section 3(4).

(4) Section 4 applies to –

- (a) an order under subsection (1) or (2) for the making of periodical payments as it applies to an order under section 2(1)(a)(iii), and
- (b) an order under subsection (1) for the payment of a lump sum as it applies to an order under section 2(1)(a)(iv).

(5) Sections 2(2) and (3) apply to an order under subsection (1) for the payment of a lump sum as they apply to an order under section 2(1)(a)(iv).

(6) In subsection (1) "**financial provision**" means –

- (a) the making of periodical payments by any person to the child or to another person for the benefit of the child,
- (b) the payment of a lump sum by any person to the child or to another person for the benefit of the child.

NOTES

In section 10,

in subsection (1), the words in the first pair of square brackets were

substituted, and those omitted in the third pair of square brackets were repealed, by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1995, respectively section 1(2) and section 1(1), with effect from 24th April, 1995;

the words in, first, the second pair of square brackets in subsection (1), second, the second pair of square brackets in subsection (2)⁴ were substituted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 25(b), paragraph 25(c), with effect from 4th January, 2010;

the words in the first pair of square brackets in subsection (2) were substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1995, section 1(2), with effect from 24th April, 1995.

The following case has referred to section 10:

A v. B (2008) (Unreported, Royal Court, 4th April) (Guernsey Judgment No 17/2008); 2007-08 GLR Note 22.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 1, with effect from 4th January, 2010, the reference in this section to "parent" shall mean, in relation to a child and subject to the conditions in paragraph (a) and (b) of subsection (1) and the exceptions in paragraph (a) and (b) of subsection (2) of that section, a father or mother who has parental responsibility in respect of the child.

Representations, and reports of [Health and Social Services Department].

11. ...

NOTES

Section 11 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.⁵

In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016 and subject to the savings and transitional provisions in section 3 of the 2016 Ordinance, the Health and Social Services Department has since been replaced by the Committee for Health & Social Care.

Disputes as to custody.

12. ...

NOTES

Section 12 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.

The following case referred to section 12:

In the matter of F (an infant) (2005) (Unreported, Magistrate's Court, 7th July) (Guernsey Judgment No 39/2005); 2005–06 GLR Note 12.

Access by grandparents.

13. ...

NOTES

Section 13 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.

Court to have regard to welfare of child.

14. ...

NOTE

Section 14 was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.*⁶

[PART III

Domestic violence

Domestic violence orders.

15. (1) On the application of either party to a marriage, the court may grant an order (a "**domestic violence order**") requiring the other party to the marriage ("**the respondent**") –

- (a) not to molest or threaten to molest the applicant, any child of the family or any child living with the applicant,
- (b) to leave, or not to enter, the matrimonial home or any part thereof, or any other specified premises, or any specified area,
- (c) to permit any person described in paragraph (a) to enter and remain in the matrimonial home or any part thereof,
- (d) not to do or omit to do any other thing specified in the order the doing or omission of which is, in the court's opinion, likely or calculated to cause harm or distress to any person described in paragraph (a),
- (e) not to incite or assist any other person to do anything which, by virtue of the order, the respondent could not lawfully do.

- (2) A domestic violence order –
- (a) may be made subject to such conditions as the court considers necessary or expedient to effect the purposes of the order,
 - (b) may be made for such term as may be specified, and
 - (c) may contain all or any of the requirements set out in paragraphs (a) to (e) of subsection (1).

(3) Except insofar as it affects rights of occupation, a domestic violence order does not affect any estate or interest in the matrimonial home.

(4) The court may by order vary or revoke a domestic violence order on the application of either party to the marriage in question.]

NOTES

Part III, and section 15 thereof, were substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(e), with effect from 25th August, 1992.

The following case has referred to section 15:

Price v. Price (1993) 13.GLJ.21.

[Arrest for breach of domestic violence order.]

16. (1) The court may attach a power of arrest to a domestic violence order if it considers it necessary to do so for the protection of any person described in section 15(1)(a).

(2) Where a power of arrest is attached to a domestic violence order, an officer of police may arrest the respondent if he has reasonable cause to suspect that the respondent has disobeyed the order in any respect.

(3) Where a power of arrest is not attached to a domestic violence order the Magistrate may, if satisfied by information on oath that the respondent has disobeyed the order in any respect, direct his arrest by an officer of police.

(4) A person arrested under subsection (2) or (3) –

- (a) shall be brought before the court within 24 hours of his arrest, and
- (b) shall not be released within that period except by direction of the court,

and nothing in this section authorises his detention beyond that period.

(5) In reckoning a period of 24 hours for the purposes of subsection (4), no account shall be taken of –

- (a) a Saturday, Sunday, Good Friday or Christmas Day,
- (b) a day appointed as a bank holiday by Ordinance of the States, or
- (c) a day appointed as a day of public thanks-giving or public mourning.]

NOTES

Section 16 was substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(e), with effect from 25th August, 1992.

In accordance with the provisions of the Bills of Exchange (Guernsey) Law, 1958, section 1B, the reference in this section to a bank holiday shall be construed as a reference to a public holiday within the meaning of section 1(1) of the 1958 Law, with effect from 27 July, 1993.

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

[Unmarried couples.]

17. Sections 15 and 16 apply in relation to [two persons] who live or have lived together in the same household [as if they were married] as they apply in relation to the parties to a marriage, and references in those sections to a party to a marriage, to a child of the family and to the matrimonial home shall be construed accordingly.]

NOTES

Section 17 was substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(e), with effect from 25th August, 1992.

In section 17, the words in the first and second pairs of square brackets were substituted by the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 1, Schedule 1, Part I, paragraph 12, with effect from 2nd May, 2017.

PART IV

Additional powers of court

Interim orders.

18. (1) Where on an application under this Law the court has power to order the making of periodical payments or the payment of a lump sum, [...] the court,

at any time before disposing of the application, may make an order (an "**interim maintenance order**") for the making of such periodical payments as it thinks fit.

(2) ...

(3) An interim maintenance order may provide for payments to be made from such date as the court may specify, not being earlier than the date of the application in question.

(4) An interim maintenance order [...] ceases to have effect upon

—

(a) the date specified in the order or, if none, the expiration of 3 months from the making of the order, or

(b) the disposal of the application,

whichever is earlier.

(5) Before an interim maintenance order [...] ceases to have effect by virtue of subsection (4), the court may by order extend it for a further period, and in that case it shall cease to have effect upon —

(a) the date specified in the order providing for the extension or, if none, the expiration of 3 months from the making of that order, or

(b) the disposal of the application,

whichever is earlier.

(6) No appeal lies from the making, variation, revocation or extension of an interim maintenance order, or from a refusal to do any of those things.

(7) For the purposes of this section an application is disposed of when the court –

- (a) makes a final order on, or dismisses, the application, or
- (b) declines to make an order on the application by virtue of section 23.

NOTES

In section 18, subsection (2), and the words omitted in the square brackets in subsection (1), subsection (4) and subsection (5), were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 25(e), paragraph 25(d), paragraph 25(f) and paragraph 25(g), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.

Subsections (1) and (3) to (7)(a) of this section are applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as they apply respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

Variation, etc. of periodical payments.

19. (1) The court may by order vary or revoke an order under this Law for the making of periodical payments, or an order under section 31(1)(b) for an arrest of wages, on an application by or on behalf of –

- (a) any person required by the order to make the payments,
or

- (b) any person to whom or for whose benefit the payments were ordered to be made, including where appropriate the [Committee for Health & Social Care].

(2) On an application under subsection (1), the court may make any order for the payment of a lump sum which it could have made when making the order to which the application relates, whether or not the person required to pay the lump sum was required to pay a lump sum by a previous order under this Law.

(3) Where under subsection (1) the court varies an order for the making of periodical payments –

- (a) the varied payments shall be made from such date as may be specified, not being earlier than the date of the application for the variation,
- (b) the court may at the same time vary any order under section 31(1)(b) for an arrest of wages.

(4) Where under this Law or under a provision of an enactment repealed by this Law the court has made an order for the making of periodical payments to or for the benefit of a child, including an order for the making of periodical payments to the [Committee for Health & Social Care] in respect of the child, the court, on the application of the child after he attains full age but before he attains the age of 21, may order that the order for the making of the periodical payments shall be revived subject to such variations and from such date, not being earlier than the date of the application for the revival, as may be specified.

(5) In deciding whether and in what manner to exercise its powers under this section, the court shall, so far as it appears just to do so, give effect to any agreement between the parties in relation to the application and, if there is no such

agreement, or if the court decides not to give effect to it, the court shall have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained full age, and the circumstances of the case include any change in any of the matters to which the court was required to have regard when making the order to which the application for a variation, revocation or revival relates.

NOTES

In section 19, the words "Committee for Health & Social Care" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.⁷

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁸

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

The following case has referred to section 19:

Price v. Price (1993) 13.GLJ.21.

In accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, the references in this section (however expressed) to the parties to the marriage or to any child of the family shall be construed respectively as references to the mother and putative father and to the child in question.

Variation, etc., of custody and other orders.

20. (1) ...

(2) ...

(3) ...

(4) ...

(5) The Court may by order vary or revoke a separation order under section 2(1)(b) on the application of either party to the marriage in question.

NOTE

In section 20, subsection (1), subsection (2), subsection (3) and subsection (4) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(h), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance.⁹

Effect of parties residing together.

21. (1) Unless the court orders otherwise –

- (a) a separation order under section 2(1) is rescinded if the parties to the marriage in question reside together at any time after the making of the order,
- (b) an order under this Law for the making of periodical payments by one party to a marriage to the other party (other than an order for the benefit of a child of the family) is rescinded if the parties reside together for any continuous period of 6 months after the making of the order,
- (c) ...

(2) Subject to subsection (1), no order under this Law is suspended, rescinded or otherwise affected by the fact of any persons residing together, unless the court orders otherwise.

NOTE

In section 21, paragraph (c) of subsection (1) was repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(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.

Reconciliation.

22. Where an application is made for an order under section 2 the court, unless satisfied that an attempt has been made to reconcile the parties or that such an attempt is impracticable or undesirable, may adjourn the proceedings to afford an opportunity of reconciliation and may, with the consent of the parties, nominate a person to act as mediator between them.

Cases more suitable for Royal Court.

23. (1) Where on an application under this Law the court considers that any matter in question would be more conveniently or properly dealt with by the Royal Court, the court shall decline to make any order in respect of the matter, and no appeal lies from that decision; but if in proceedings in the Royal Court relating to the matter the Royal Court so orders, the matter shall be reheard and determined by the court, and on so ordering, the Royal Court may make such interim maintenance order [...] as it thinks fit.

(2) Sections 19, 20, [...] 26 and 31 apply to an interim maintenance order [...] of the Royal Court under subsection (1) as they apply to such an order of the court.

NOTE

In section 23, the words and figures omitted in, first, the square brackets in subsection (1), second, the first pair of square brackets in subsection (2) and, third, the second pair of square brackets in subsection (2) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 25(j), paragraph 25(k)(i) and paragraph 25(k)(ii), 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 Royal Court in respect of certain orders.

24. (1) Where, after the making by the court of an order under this Law, proceedings which touch or concern any matter governed by the order are begun in any division of the Royal Court, the division may, if it thinks fit, revoke the order and any related interim order under section 23(1).

(2) Subsection (1) does not prejudice the effect of an order of any division of the Royal Court which, implicitly or otherwise, supersedes or revokes an order or part of an order made by the court.

NOTE

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

Removal of children from Guernsey.

25. (1) Where the court makes or has made an order under this Law in respect of the custody or care of a child, [or where, in exceptional circumstances, the court considers it necessary in the interests of justice to do so,] the court may order that no person (except such persons as may be specified in the order) shall take the

child out of the Bailiwick of Guernsey, or any part thereof specified in the order, without the leave of the court, except on such terms as may be specified in the order.

(2) An order under subsection (1) has effect for such period as may be specified or, if none, for as long as the order in respect of the custody or care of the child has effect [or, as the case may be, until an order in respect of the custody or care of the child is made].

(3) The court may by order vary or revoke an order under subsection (1).

(4) An application for an order under subsection (1) or for a variation or revocation of such an order may be made by either party to the marriage in question, by either parent of the child, or by any other person having custody of the child.

NOTES

In section 25, the words in square brackets in subsection (1) and subsection (2) were inserted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, respectively section 1(g) and section 1(h), with effect from 25th August, 1992.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 1, with effect from 4th January, 2010, the reference in this section to "parent" shall mean, in relation to a child and subject to the conditions in paragraph (a) and (b) of subsection (1) and the exceptions in paragraph (a) and (b) of subsection (2) of that section, a father or mother who has parental responsibility in respect of the child.

Payments made by mistake.

26. (1) Where an order under this Law for the making of periodical payments by any person ceases to have effect and that person continues to make payments (other than arrears) in the mistaken belief that the order is subsisting, the

court, on the application of that person or his personal representative, may order the person to whom or for whose benefit the payments were made, or his personal representative, to repay the amount mistakenly paid or, if it appears to the court that that would be unjust, such lesser sum, if any, as it thinks fit.

(2) An order under subsection (1) may provide for repayment by instalments of such amount and at such intervals as may be specified.

NOTE

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

Payment of lump sums by instalments.

27. Where the court –

- (a) makes an order under this Law for the payment of a lump sum, the court may, instead of requiring immediate payment, allow time for payment, or order payment by instalments,
- (b) has allowed time for payment, the court may by order allow further time or order payment by instalments,
- (c) has ordered payment by instalments, the court may by order vary the number of instalments, the amount of any instalment, and the date on which any instalment becomes payable.

NOTE

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

Power to remit arrears.

28. [(1)] Where an order has been made under this Law for the making of periodical payments, or for the payment of a lump sum by instalments, and arrears have accrued, the court, on an application under this section or in any proceedings (whether under this Law or otherwise) relating to the order or to the arrears, may order that the arrears shall be remitted or reduced.

[(2) An order under subsection (1) for the reduction or remission of arrears shall not be made in respect of any sum comprised in a judgment debt of any amount.]

NOTES

In section 28, subsection (1) was renumbered, and subsection (2) was inserted, by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(i), with effect from 25th August, 1992.

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

Power to issue summons.

29. (1) The Magistrate may, on the application of any person, issue a summons to another person to appear before the court to see the first-mentioned person make an application to the court for an order under this Law.

(2) The Magistrate may refuse to issue a summons if he considers the intended application to the court to be frivolous or vexatious, or for any other reason whatsoever, and no appeal lies from the refusal.

(3) The Magistrate, before issuing a summons –

(a) may require the applicant to swear an affidavit as to any fact or matter which the Magistrate considers to be relevant to the intended application,

(b) for that purpose, may administer the oath.

NOTES

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

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

PART V

Appeals and enforcement

Appeals.

30. (1) Subject to sections 18(6) and 23, where under this Law the court makes, varies, revokes or revives an order, or refuses to do any of those things, an appeal lies to the Royal Court.

(2) On an appeal under subsection (1) the Royal Court may make any order necessary to give effect to its determination of the appeal (including any order which the court could have made under this Law) and, before such determination, may make such interim maintenance orders [...] as it thinks fit.

(3) On an appeal from a decision relating to the making of periodical payments, the Royal Court may –

- (a) order that its determination of the appeal shall have effect from such date as it thinks fit, not being earlier than the date of the application to the court from which the decision arose,
- (b) if it reduces the amount of the payments or discharges the order under which they are made, order the person entitled to receive the payments to pay to the person liable to make them such sum in respect of any payments already made as it thinks fit and, if any arrears are due, order that the arrears or any part of them shall not be paid.

(4) ...

(5) Sections [...] 15(4), 19, 20[(5)], 21, 24, [...] 26, 27, 28 and 31 apply to or in relation to an order of the Royal Court made on an appeal under subsection (1) as they apply to an order of the court; and any power conferred by those sections on the court may (where appropriate) be exercised in respect of such an order of the Royal Court.

(6) Section 14 of the Magistrate's Court (Guernsey) Law, 1954^b applies to an appeal under this section as it applies to an appeal under the said section 14.

NOTES

In section 30,

subsection (4), and the words, figures and parentheses in, first, subsection (2) and, second, the first and third pairs of square brackets in subsection (5) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 25(1)(ii), paragraph 25(1)(i) and paragraph 25(1)(iii)(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;

the figure and parentheses in the second pair of square brackets in subsection (5) were inserted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(1)(iii)(B), with effect from 4th January, 2010.

The following case has referred to section 30:

A v. B (2008) (Unreported, Royal Court, 4th April) (Guernsey Judgment No 17/2008); 2007-08 GLR Note 22.

Subsections (1) to (3) and (5) and (6) of this section are applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as they apply respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

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.

Enforcement.

31. (1) Where the court makes an order under this Law for the

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

payment of money –

- (a) a copy of the order may be served on the person liable to make the payment; and if he does not comply with the order in any respect the court, on an application by or on behalf of the person to whom or for whose benefit the payment was ordered to be made, including where appropriate the [Committee for Health & Social Care], may commit him to prison until he has remedied his default, and may, having regard to the means of the parties, order that no arrears shall accrue while he is in prison,
- (b) the court, when making the order or at a later date, may, on an application by or on behalf of the person to whom or for whose benefit the payment was ordered to be made, and having regard to the means of the party liable to make the payment, order that a proportion, not exceeding one half, of the wages of that party shall be arrested to facilitate the recovery of the payment; and such an order has effect as an arrêt de gages to which the Ordonnance relative à l'arrêt de Gages des Employés, 1933^c [applies],
- (c) the court may direct that payment shall be made at the place, to the person, and at the times specified in the order.

(2) ...

^c Recueil d'Ordonnances Tome VIII, p. 298.

(3) No person shall be committed to prison under subsection (1) [...] for a period of, or for periods totalling, more than 3 months in respect of any one default.

(4) A person liable to make a payment under an order made under this Law shall give notice of any change of his address to the person specified in the order or, if none, to the court, and a person who without reasonable excuse fails to comply with this subsection is guilty of an offence and liable on summary conviction to a fine not exceeding [level 2 on the uniform scale].

(5) A person who disobeys an order under section 15(1) is liable to a fine not exceeding [level 4 on the uniform scale], imprisonment for a term not exceeding 3 months, or both.

(6) A person who contravenes, or attempts to contravene, an order under section 25(1) is guilty of an offence and liable on summary conviction to a fine not exceeding [level 4 on the uniform scale], imprisonment for a term not exceeding 3 months, or both.

(7) ...

(8) The provisions of this section are in addition to any other right of action or remedy, existing independently of this section, in respect of an order under this Law.

NOTES

In section 31,

the words in square brackets in paragraph (a) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st

May, 2016;¹⁰

the word in square brackets in paragraph (b) of subsection (1) was substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(j), with effect from 25th August, 1992;

first, subsection (2) and subsection (7)¹¹ and, second, the word, figure and parentheses omitted in square brackets in subsection (3) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 25(m)(i) and paragraph 25(m)(ii), 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 and figures in square brackets in subsection (4), subsection (5) and subsection (6) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹²

Subsections (1), (3), (4) and (8) of this section are applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as they apply respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

PART VI

Miscellaneous and general

Procedure.

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

(2) Proceedings in the court and the Royal Court under this Law may be heard and determined in camera.

(3) If proceedings are heard in camera, the Royal Court may nevertheless give judgment in open court on points of law or principle, provided that the judgment is delivered in such a manner that it does not establish or tend to establish the identity of any party to the proceedings.

NOTE

This section is applied, in accordance with the provisions of the Loi relative à l'Entretien des Enfants Illégitimes, 1927, Article 2(5), with effect from 25th August, 1992, to an order under that Law for the making of periodical payments or for the payment of a lump sum as it applies respectively in relation to an order under section 2(1)(a)(iii) or (iv) of this Law.

Service.

33. An order or notice [or summons] to be served on any person under this Law is validly served 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[; and rules under section 34 may make any additional provision whatsoever as to service].

NOTE

In section 33, the words in the first and second pairs of square brackets were inserted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, respectively section 1(k)(i) and section 1(k)(ii), with effect from 25th August, 1992.

Rules of Court.

34. The Royal Court sitting as a Full Court may by Order make rules dealing with all procedural and incidental matters arising under this Law, and generally for carrying this Law into effect.

NOTE

The following Rules have been made by Order of the Royal Court under section 34:

Domestic Proceedings and Magistrate's Court (Amendment) Rules, 1993;
Family Proceedings (Guernsey and Alderney) Rules, 2009.

Interpretation.

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

(a) **"adopted"** means adopted under –

- (i) an adoption order made under the Adoption (Guernsey) Law, 1960^e,
- (ii) an adoption order made in any part of the United Kingdom, in the Isle of Man, or in the Island of Jersey, or
- (iii) an overseas adoption within the meaning of section 5 of the Adoption (Guernsey) Law, 1970^f,

"child", in relation to one or both of the parties to a marriage, includes an illegitimate or adopted child of that party or, as the case may be, of both parties,

^e Ordres en Conseil Vol. XVIII, p, 192.

^f Ordres en Conseil Vol. XXII, p. 380.

"child of the family", in relation to the parties to a marriage, means –

- (i) a child of both those parties, and
- (ii) any other child, not being a child who is being boarded out with those parties by the [Committee for Health & Social Care] or otherwise, who has been treated by both of those parties as a child of their family,

"the court" means the Magistrate's Court established under the Magistrate's Court (Guernsey) Law, 1954,

"full age" means the age of 18 years,

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

[...]

"interim maintenance order" has the meaning given by section 18(1),

"Magistrate" means the Magistrate appointed under section 2(2) of the Magistrate's Court (Guernsey) Law, 1954,

"officer of police" means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

"the Royal Court" means the [Matrimonial Causes Division of the Royal Court],

- (b) any reference to an enactment is a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment, including this Law, and
- (c) any reference to an order or application under this Law or a provision of this Law includes a reference to an order, injunction or application which, by virtue of section 38, has effect as if made under this Law or that provision.

(2) For the purposes of this Law, an application to the court is considered to be made on, and the date of such an application is considered to be, the date on which the application first comes before the court.

NOTES

In section 35,

the words in square brackets in the definition of the expression "child of the family" in paragraph (a) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016;¹³

the words omitted in the second pair of square brackets in paragraph (a) of subsection (1) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(n), with effect from 4th January, 2010;

the words in square brackets in the definition of the expression "the Royal Court" in paragraph (a) of subsection (1) were substituted by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1994, section 1, with effect from 16th January, 1995, subject to the

transitional provisions in section 2 of the 1994 Law.

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.¹⁴

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

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

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.

Amendments.

36. The enactments set out in Schedule 1 to this Law are amended in the manner set out in the second column of that Schedule.

Repeals.

37. The enactments set out in Schedule 2 to this Law are repealed to the extent set out in the second column of that Schedule.

Transitional and savings provisions.

38. (1) An order or injunction of the court or the Royal Court which was made under a provision of an enactment repealed by this Law, and which was in force immediately prior to the commencement of this Law, has effect as if made under the provision of this Law under which such an order or injunction could be made.

(2) An application outstanding at the commencement of this Law for an order or injunction of the court under a provision of an enactment repealed by this Law has effect as if made under the provision of this Law under which an application for such an order or injunction could be made.

(3) An appeal outstanding at the commencement of this Law instituted under a provision of an enactment repealed by this Law may proceed and be determined as if the provision had not been repealed.

Citation.

39. This Law may be cited as the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988.

Commencement.

40. This Law comes into operation on the day appointed by Ordinance of the States.

NOTE

The Law was brought into force on 5th December, 1989 by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 (Commencement) Ordinance, 1989, section 1.

SCHEDULE 1

Section 36

Enactment	Amendment
[...]	[...]
[...]	[...]
[...]	[...]
Maintenance Orders (Reciprocal Enforcement) (Bailiwick of Guernsey) Law, 1984 ⁱ	<p>In section 25(1), for "Article one of the Law of 1930" substitute "the Law of 1988 by a married woman".</p> <p>In section 25(2) –</p> <ul style="list-style-type: none"> (i) for "an order under Article one of the Law of 1930" substitute "such an order", (ii) for paragraphs (a) and (b) substitute – <ul style="list-style-type: none"> "(a) a provision for the making of payments by the husband to the wife, and (b) a provision for the making of payments by the husband to or for the benefit of any child of the marriage," (iii) for "Article one of the Law of

ⁱ No. XV of 1984.

	<p>1930" where those words secondly appear, substitute "the Law of 1988".</p> <p>In section 38(1), for "such as is mentioned in paragraph (c) (which relates to payments by the husband to the wife) of Article one of the Law of 1930 or" substitute "for the making of payments by the husband to the wife, or a provision such as is mentioned in".</p> <p>In section 42(1), repeal the definition of "the Law of 1930" and insert –</p> <p>"the Law of 1988" means the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988,".</p>
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NOTES

In Schedule 1,

the words omitted in the first and second pairs of square brackets in the right- and left-hand columns were repealed by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(l), with effect from 25th August, 1992;

the words omitted in the third pairs of square brackets in the right- and left-hand columns were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 25(o), with effect from 4th January, 2010.

SCHEDULE 2

Section 37

Enactment	Extent of Repeal
Loi relative à la Séparation de Mariés en Police Correctionnelle, 1930 ^j	The whole Law.
Matrimonial Causes Law (Guernsey), 1939 ^k	Article 70. Article 43A(2)(b).
Maintenance and Affiliation Orders (Amendment) Law, 1955	Sections 1, 2 and 3.
Matrimonial Causes (Amendment) (Guernsey) Law, 1972 ^l	Section 2.
Maintenance and Affiliation Orders (Maximum Weekly Payments) Ordinance, 1975 ^m	The whole Ordinance.
Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978	Sections 13 and 14. In section 17(1), the word "thirteen,". Sections 18, 20(3) and 20(4).
The Domestic Violence and Separation Proceedings (Guernsey) Law, 1983 ⁿ	The whole Law.

^j Ordres en Conseil Vol. VIII, p. 452.

^k Ordres en Conseil Vol. XI, p. 318; and Vol. XXVII, p. 99.

^l Ordres en Conseil Vol. XXIII, p. 489.

^m Recueil d'Ordonnances Tome XX, p. 145.

ⁿ No. IV of 1983.

Maintenance and Affiliation Orders (Amendment) (Guernsey) Law, 1984 ^o	Sections 1, 2 and 6(1).
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NOTE

The Maintenance and Affiliation Orders (Amendment) Law, 1955, and the Maintenance and Affiliation Orders (Amendment) (Guernsey) Law, 1984, have since been repealed by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 3, with effect from 25th August, 1992.

¹ Prior to its repeal, section 7 was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph

^o No. X of 1984.

8, with effect from 6th May, 2004.

² 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.

³ Prior to its repeal, section 9 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.

⁴ Prior to their substitution, these words were amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

⁵ Prior to its repeal, section 11 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.

⁶ Prior to its repeal, section 14 was amended by the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(d), with effect from 25th August, 1992.

⁷ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

⁸ The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Children Board and its President 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.

⁹ Prior to its repeal, subsection (4) was amended by: the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, section 1(f), with effect from 25th August, 1992; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

¹⁰ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

¹¹ Prior to their repeal, subsection (2) and subsection (7) were amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004; and subsection (7) was amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

¹² The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Children Board and its

President 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.

13 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

14 The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Children Board and its President 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.