

ORDER IN COUNCIL

VIII
1989

ratifying a Projet de Loi

ENTITLED

The Juvenile Court (Guernsey) Law, 1989

(Registered on the Records of the Island of Guernsey
on the 2nd day of May, 1989.)



1989

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 18th day of April, 1989 before Graham Martyn Dorey, Esquire, Deputy Bailiff; present: Brian Ernest Herbert Joy, Harry Wilson Bisson, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley and Kenneth John Rowe, Esquires, Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 15th day of March, 1989 approving and ratifying a *Projet de Loi* of the States of Guernsey entitled "The Juvenile Court (Guernsey) Law, 1989", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 15th day of March 1989

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 24th day of February 1989 in the words following, viz.:—

“Your Majesty having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth—

‘1. That, in pursuance of their Resolution of the 27th day of February, 1986, the States of Deliberation at a meeting held on the 27th day of July 1988 approved a Bill or “Projet de Loi” entitled “The Juvenile Court (Guernsey) Law, 1989”, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Juvenile Court (Guernsey) Law, 1989”, and to order that the same shall have force of law in the Island of Guernsey.’

“The Lords of the Committee, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty’s Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

G. I. de Deney.

PROJET DE LOI

ENTITLED

The Juvenile Court (Guernsey) Law, 1989

ARRANGEMENT OF SECTIONS

Section

PART I

GENERAL PROVISIONS

1. Establishment and functions of the Juvenile Court.
2. Residual jurisdiction of the Magistrate's Court.
3. General considerations in all courts.

PART II

CONSTITUTION OF THE JUVENILE COURT AND THE JUVENILE COURT PANEL

4. Constitution of the Juvenile Court.
5. The Juvenile Court Panel.
6. Procedure in the Juvenile Court.

PART III

APPEALS, AMENDMENTS AND MISCELLANEOUS PROVISIONS

7. Appeals.
8. Amendments.
9. Remands in custody of juveniles.
10. Extent and Interpretation.
11. Transitional provisions.
12. Citation and commencement.

PROJET DE LOI

ENTITLED

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

Establish-
ment 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 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).

(a) Ordres en Conseil Vol. V, p. 345.

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

(c) Ordres en Conseil Vol. XXII, p. 318.

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

Residual
Jurisdiction
of the
Magistrate's
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
 - (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.

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. The Juvenile Court Panel.

(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.

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. Procedure in the Juvenile Court.

(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.

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.

Amend-
ments.

8. (1) In the Children and Young Persons (Guernsey) Law, 1967(e)—

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

- (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 "supervision order";
- (g) immediately after section 5 there is inserted the following additional sections—

"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
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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.”.

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 Children Board 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.

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

(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 Children Board” means the Board 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)(h) Law, 1967, placing a juvenile under the supervision of a probation officer or of some

(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.

other person appointed for that purpose by the Juvenile Court.

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.

K. H. TOUGH,

Her Majesty's Greffier.