

# ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

## **The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964**

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(Registered on the Records of the Island of Guernsey  
on the 25th day of August, 1964.)

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1964.

**VIII**

**1964**

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 25th day of August, 1964, before Sir William Arnold, Kt., C.B.E., C. St. J., Bailiff; present : — Sir John Leale, Théophile Le Messurier Allez, Bertram Guy Blampied, Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Carl Edward Blad, Albert Victor Dorey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier and William Burton Fox, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 23rd day of June, 1964, ratifying a *Projet de Loi* of the States of Alderney entitled "The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney for registration on the records of that Island, of which Order in Council the tenor followeth:—

# At the Court at Buckingham Palace

The 23rd day of June, 1964.

PRESENT,

## The Queen's Most Excellent Majesty.

LORD PRESIDENT

DUKE OF DEVONSHIRE

MARQUESS OF LANSDOWNE

EARL OF DUNDEE

MR. WOOD

MR. THOMAS

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 8th day of June, 1964, 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 a humble Petition of Sydney Peck Herivel, Esquire, President of the States of the Island of Alderney setting forth:

‘That at a meeting of the States of Alderney held on the tenth day of March, 1964, the States adopted a Resolution that a Projet de Loi entitled “The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964” be approved: That at the meeting of the States aforesaid your Humble Petitioner was authorised to present to Your Majesty in Council a Petition that the said Projet de Loi be sanctioned: That the said Projet de Loi is set forth in the words and figures of the Schedule annexed hereunto: And most humbly praying that Your Majesty might be

graciously pleased to grant Your Royal Sanction to the Projet de Loi entitled "The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964" and order that the same shall have the force of law within the Island of Alderney.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition, and the Projet de Loi annexed thereto, 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, as it is hereby ordered, that the same shall have the force of law within the Island of Alderney.

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, of the said Island of Guernsey, and also the Jurats of the said Island of Alderney, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*W. G. Agnew.*



Projet de Loi referred to in the foregoing  
Order in Council.

## PROJET DE LOI

ENTITLED

### **The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964**

ARRANGEMENT OF SECTIONS

*Section*

#### PART I

INTERPRETATION

1. Interpretation.

#### PART II

SEPARATION AND MAINTENANCE PROCEEDINGS

2. Grounds upon which a married woman may apply for an order under section three of this Law.
3. Provisions which may be included in an order made on the application of a married woman.
4. Grounds upon which a married man may apply for an order under section five of this Law.
5. Provisions which may be included in an order made on the application of a married man.
6. Restriction on power of the Court to make orders in cases of applications on ground of adultery.
7. Effect of provision as to non-cohabitation.

8. Revocation and variation of orders under this Part of this Law.
9. Summons required to be served on respondent to an application under this Part of this Law.

### PART III

#### AFFILIATION PROCEEDINGS

10. Commencement of affiliation proceedings.
11. Time for application for summons.
12. Powers of the Court on hearing of application.
13. Persons entitled to payments under affiliation orders.
14. Duration of affiliation orders.
15. Revocation, variation and revival of affiliation orders.
16. Continuance of payments in certain cases.
17. Misconduct by person appointed by Court to have custody of illegitimate child.
18. Affiliation orders in cases where public assistance is given.
19. Guardians ad litem.
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21. Enforcement of maintenance orders and affiliation orders.
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23. Release from prison and reduction of period of imprisonment on payment.
24. Power of the Court to remit arrears.

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25. Application where respondent is outside the Island of Alderney.
26. Notification of change of address by person liable to make payments under a maintenance order or affiliation order.
27. Payments under maintenance orders or affiliation orders through Clerk of the Court.
28. Appeals.
29. Rules of Court.
30. Citation.

SCHEDULE: *Notice to person outside the Island of Alderney of application for revocation or variation of a maintenance order or affiliation order.*



# PROJET DE LOI

ENTITLED

## **The Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964**

THE STATES, in pursuance of their Resolution of the fourteenth day of January, nineteen hundred and sixty-four, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

### PART I

#### INTERPRETATION

Interpreta-  
tion.

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

“affiliation order” has the meaning assigned to it by section twelve of this Law (which relates to the powers of the Court on hearing an application under section ten of this Law);

“the Court” means the Court of Alderney;

“dependant” means a person—

(a) who is either receiving full-time instruction at an educational establishment or undergoing training for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years; or

(b) whose earning capacity is impaired through illness or disability of mind or body;

“maintenance order” means—

(a) an order under section three of this Law (which relates to the provisions which may

be included in an order made on the application of a married woman under section two of this Law) containing for the time being a provision such as is mentioned in paragraph (c), (d) or (e) of subsection (1) of that section; or

- (b) an order under section five of this Law (which relates to the provisions which may be included in an order made on the application of a married man under section four of this Law) containing for the time being a provision such as is mentioned in paragraph (c) of that section;

“officer of police” means a member of the salaried police force of the Island of Guernsey or a member of any police force which may be established by the States;

“the States” means the States of Alderney.

(2) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

(3) 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.

## PART II

### SEPARATION AND MAINTENANCE PROCEEDINGS

#### 2. Any married woman whose husband—

- (a) is an habitual drunkard; or
- (b) has been convicted of an aggravated assault upon her; or
- (c) has deserted her; or

Grounds upon which a married woman may apply for an order under section three of this Law.

- (d) has been guilty of persistent cruelty to her or her children, or of continued wilful neglect to provide reasonable maintenance for her or her children whom he is legally liable to maintain; or
- (e) while suffering from a venereal disease and knowing that he was so suffering, has insisted on having sexual intercourse with her; or
- (f) has compelled her to submit herself to prostitution or has been guilty of such conduct as was likely to result and has resulted in his wife's submitting herself to prostitution; or
- (g) has been guilty of adultery;

may apply to the Court for an order under the next succeeding section.

Provisions which may be included in an order made on the application of a married woman.

3.—(1) Subject to the provisions of subsection (2) of this section and of section six of this Law (which contains a restriction on the power of the Court to make orders in cases of applications on grounds of adultery), where an application has been made to the Court under the last preceding section, the Court may make an order containing any one or more of the following provisions, namely—

- (a) a provision that the applicant be no longer bound to cohabit with her husband;
- (b) a provision that the legal custody of any child of the marriage between the applicant and her husband, while under the age of sixteen years, be committed to the applicant;
- (c) a provision that the husband shall pay to the applicant personally, or for her use to such other person on her behalf as may be specified in the order, such weekly sum not exceeding seven pounds ten shillings, or such

other sum as the States may from time to time by Ordinance prescribe, as the Court shall, having regard to the means of both the applicant and her husband, consider reasonable;

- (d) where the legal custody of any children of the marriage between the applicant and her husband has been committed to the applicant by the order, a provision that the husband shall pay to the applicant, or to such other person on her behalf as may be specified in the order, a weekly sum not exceeding fifty shillings, or such other sum as the States may from time to time by Ordinance prescribe, for the maintenance of each such child for so long as the child is under the age of sixteen years;
- (e) if it appears to the Court that any child of the marriage between the applicant and her husband—
  - (i) who is over the age of sixteen years, is a dependant; or
  - (ii) who is under the age of sixteen years, will be a dependant after he has attained that age;

and the Court is of the opinion that it is expedient to make provision for the maintenance of the child while he is a dependant, a provision that the husband shall pay to the applicant or to such other person (who may be the child) as may be specified in the order a weekly sum not exceeding fifty shillings, or such other sum as the States may from time to time by Ordinance prescribe, for such period during which the child is over the age of sixteen years but

under the age of twenty years as may be so specified.

(2) An order shall not be made under this section if it is proved that the applicant is guilty of adultery and that the husband of the applicant has not condoned or connived at, or by his wilful neglect or misconduct conducted to, the adultery.

Grounds upon which a married man may apply for an order under section five of this Law.

4. Any married man whose wife—

- (a) is an habitual drunkard; or
- (b) has been guilty of persistent cruelty to his children; or
- (c) has been guilty of adultery;

may apply to the Court for an order under the next succeeding section.

Provisions which may be included in an order made on the application of a married man.

5. Subject to the provisions of the next succeeding section, where an application has been made to the Court under the last preceding section, the Court may make an order containing any one or more of the following provisions, namely—

- (a) a provision that the applicant be no longer bound to cohabit with his wife;
- (b) a provision for the legal custody of any child of the marriage between the applicant and his wife;
- (c) a provision that the applicant shall pay to his wife personally, or for her use to such other person on her behalf as may be specified in the order, such weekly sum not exceeding seven pounds ten shillings, or such other sum as the States may from time to time by Ordinance prescribe, as the Court shall, having regard to the means of both the applicant and his wife, consider reasonable.

6. The Court shall not make an order under section three of this Law (which relates to the provisions which may be included in an order made on the application of a married woman under section two of this Law) or under the last preceding section upon an application made to it on the ground that the husband or the wife, as the case may be, has been guilty of adultery unless the Court is satisfied that the applicant has not condoned or connived at, or by his or her wilful neglect or misconduct conduced to, the adultery and that the application is not made or prosecuted in collusion with the other party to the marriage or any person with whom it is alleged that the adultery has been committed.

Restriction on power of the Court to make orders in cases of applications on ground of adultery.

7. Where an order is made under this Law containing a provision such as is mentioned in paragraph (a) of subsection (1) of section three (which relates to the provisions which may be included in an order made on the application of a married woman under section two of this Law) or paragraph (a) of section five (which relates to the provisions which may be included in an order made on the application of a married man under section four of this Law) of this Law—

Effect of provision as to non-cohabitation.

- (a) it shall no longer be obligatory for the person upon whose application the order was made to cohabit with the other party to the marriage;
- (b) so long as such provision is in force, the husband shall not be liable in respect of any engagement or contract into which the wife enters after the date of the making of the order or for any wrongful act or omission by her or for any costs she incurs in any legal proceedings;

PROVIDED that where the husband defaults in the payment of any sum to which

the wife is entitled in pursuance of any provision contained in the order, being a provision such as is mentioned in paragraph (c), paragraph (d) or paragraph (e) of subsection (1) of section three or in paragraph (c) of section five of this Law, he shall be liable for necessities supplied for the use of the wife or of any child in respect of whom such sum is payable or for the use of the wife and of any such child, as the case may be.

Revocation  
and variation  
of orders  
under this  
Part of this  
Law.

8. The Court may, upon the application of a married man or of a married woman and upon cause being shown upon fresh evidence to the satisfaction of the Court, at any time revoke or vary any order made under this Part of this Law and may vary such order by *adding thereto* any provision authorised by this Law to be included therein:

PROVIDED that where the Court increases the amount of any weekly sum payable under such order in respect of any person, such weekly sum, as so increased, shall not exceed the weekly sum which for the time being may be ordered to be paid under the foregoing provisions of this Law in respect of that person.

Summons  
required to  
be served on  
respondent to  
an  
application  
under this  
Part of this  
Law.

9.—(1) Subject to the provisions of section twenty-five of this Law (which relates to an application where the respondent is outside the Island of Alderney), the Court shall not proceed to hear and determine any application under this Part of this Law unless there has been served on the respondent to the application not less than six days before the day on which the application is made to the Court a summons requiring him to appear before the Court on the day and at the time of the making of the application and stating shortly the matter of the

application and the day and time on and at which the application is to be made to the Court.

(2) A summons required to be served under subsection (1) of this section shall be served personally on the respondent to the application to which the summons relates by the Clerk of the Court.

### PART III

#### AFFILIATION PROCEEDINGS

10.—(1) A single woman who is with child, or who has been delivered of an illegitimate child may apply to the Court for a summons to be served on the man alleged by her to be the father of the child and the Court may thereupon order a summons to be served on such man to appear before the Court on the day and at the time specified in the summons to answer the allegations made by the applicant. Commencement of affiliation proceedings.

(2) A summons ordered to be served on any person under subsection (1) of this section shall be served not less than six days before the day on which that person is required to appear before the Court and shall be served personally on that person by the Clerk of the Court.

(3) An application under this section, if made before the birth of the child, shall be substantiated on oath.

(4) An application under this section may be made by a woman who was a single woman at the date of the birth of the child whether or not she is a single woman at the time of the application and the reference in the next succeeding section to a single woman shall be construed accordingly.

11.—(1) An application under the last preceding section, where the applicant has been delivered of an illegitimate child, may be made— Time for application for summons.



- (a) at any time within twelve months from the child's birth; or
- (b) at any subsequent time, upon proof that the man alleged to be the father of the child has within the twelve months next after the birth paid money for its maintenance; or
- (c) at any time within twelve months next after the man's return to the Island of Alderney, upon proof that he ceased to reside in the Island of Alderney within the twelve months next after the birth.

(2) A single woman who has been delivered of a child may, upon proof that—

- (a) before the birth she was a party to a marriage which would have been valid but for the provisions of any enactment in force in the Island of Alderney making it void on account of her, or the other party to the marriage, being under the age of sixteen years; and
- (b) the said other party had access to her within twelve months before the birth;

make at any time an application under the last preceding section against that party, notwithstanding that he may not within the twelve months next after the birth have paid money for the child's maintenance.

Powers of  
the Court on  
hearing of  
application.

12.—(1) Upon the appearance before the Court of the respondent to any application under section ten of this Law (which relates to the commencement of affiliation proceedings) or upon proof that the summons ordered to be served on him under that section has been served on him in accordance with the provisions of subsection (2) of that section, the Court shall hear the evidence of the mother (notwith-

standing any consent or admission on the part of the respondent) and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the respondent.

(2) If the evidence of the mother is corroborated in some material particular by other evidence to the satisfaction of the Court, the Court may adjudge the respondent to be the putative father of the child and may also, if it thinks fit in all the circumstances of the case, proceed to make against him an order (hereafter in this Law referred to as "an affiliation order") for the payment by him of—

- (a) a weekly sum, not exceeding fifty shillings, or such other sum as the States may from time to time by Ordinance prescribe, for the maintenance and education of the child;
- (b) the expenses incidental to the birth of the child; and
- (c) if the child has died before the making of the order, the child's funeral expenses.

(3) Where an application under section ten of this Law is made before or within two months after the birth of the child, any weekly sum ordered to be paid under paragraph (a) of the last preceding subsection may, if the Court thinks fit, be calculated from the date of the birth.

13.—(1) Subject to the provisions of this Part of this Law and subject to the provisions of section seventeen of the Non-Contributory Pensions (Guernsey) Law, 1955 (which relates to affiliation orders), the person entitled to any payments to be made under an affiliation order shall be the child's mother, and the order shall provide accordingly.

Persons  
entitled to  
payments  
under  
affiliation  
orders.

(2) An affiliation order may, on the application of a person other than the child's mother who for

the time being has the custody of the child, either legally or by any arrangement approved by the Court, be made or varied by the Court so as to entitle that person to any payments to be made under the order.

(3) Where an affiliation order for the time being provides for the child's mother to be entitled to any payments to be made under the order, the payments shall be due under the order in respect of such time and so long as she is living and of sound mind and is not in prison, and if the mother has died, or is of unsound mind, or is in prison, the Court may by order from time to time appoint some person (with his consent) to have the custody of the child; and a person appointed as aforesaid under this subsection shall be entitled to any payments to be made under an affiliation order and may make application for the recovery of any payments due thereunder in the same manner as the mother might have done.

(4) The Court may revoke any appointment made under the last preceding subsection and appoint another person thereunder in place of the person formerly appointed.

Duration of  
affiliation  
orders.

14. Subject to the provisions of this Part of this Law, an affiliation order shall not, except for the purpose of recovering money previously due under the order, be of any force or validity after the child has attained the age of sixteen years or has died; and payments under the order shall not be required to be made in respect of any period after the child has attained the age of thirteen years unless the order contains a direction that payments to be made under it are to continue until the child attains the age of sixteen years.

Revocation,  
variation and  
revival of  
affiliation  
orders.

15. The Court may, upon application being made to it in that behalf, revoke, vary or revive an affiliation order:

PROVIDED that where the Court increases the amount of any weekly sum payable under an affiliation order, such weekly sum, as so increased, shall not exceed the weekly sum which may for the time being be ordered to be paid under paragraph (a) of subsection (2) of section twelve of this Law (which relates to the powers of the Court on hearing an application under section ten of this Law).

16.—(1) If, on the application of the mother of any child in respect of whom an affiliation order has been made, it appears to the Court that the child is or will be a dependant after attaining the age of sixteen years and the Court is of the opinion that it is expedient to make provision for his maintenance while he is a dependant, the Court may by order direct that payments under the order shall be made to the mother of the child or to the child for such period during which the child is over the age of sixteen years but under the age of twenty years as may be specified in the order.

Continuance  
of payments  
in certain  
cases.

(2) Any reference in this section to the mother of the child shall be taken as including a reference to any person, for the time being having the custody of the child either legally or by any arrangement approved by the Court.

17. If any person appointed under subsection (3) of section thirteen of this Law (which relates to persons entitled to payments under affiliation orders) to have the custody of an illegitimate child—

Misconduct  
by person  
appointed  
by Court to  
have custody  
of  
illegitimate  
child.

(a) misapplies any money paid by the putative father for the child's support; or

(b) withholds proper nourishment from or otherwise abuses or maltreats the child;

he shall be liable, on conviction, to a fine not exceeding twenty-five pounds.

Affiliation  
orders in  
cases where  
public  
assistance is  
given.

18.—(1) The following provisions of this section shall have effect where assistance is given by the Public Assistance Committee of the States of Alderney (hereafter in this section referred to as "the Committee") by reference to the requirements of an illegitimate child.

(2) If no affiliation order is in force, the Committee may, within one year from the time when the assistance was given, make application to the Court for a summons to be served under section ten of this Law (which relates to the commencement of affiliation proceedings).

(3) In any proceedings on an application under the last preceding subsection the Court shall hear such evidence as may be produced by the Committee, in addition to the evidence required to be heard by section twelve of this Law (which relates to the powers of the Court on hearing an application under section ten of this Law), and shall in other respects, but subject to the provisions of the next succeeding subsection, proceed as on an application made by the mother under section ten of this Law.

(4) An affiliation order made on an application under subsection (2) of this section may be made so as to provide that the payments or a part of the payments to be made thereunder shall, in lieu of being made to the mother or a person having the custody of the child for the time being, be made to the Committee or such person as the Court may direct.

(5) On an application by the Committee, in any proceedings under section ten of this Law brought by the mother of the child, an affiliation order may be made so as to provide as aforesaid.

(6) An affiliation order may, on the application of the Committee, be varied so as to provide as afore-

said; and an affiliation order which provides as aforesaid may, on the application of the mother of the child, be varied so as to provide that the payments thereunder shall be made to her or to a person having the custody of the child either legally or by any arrangement approved by the Court.

19. In any proceedings instituted or intended to be instituted under this Part of this Law, if it appears to the Court that any person who is or will be a party to such proceedings is an infant, that is to say, a person under the age of twenty years and—

Guardians  
ad litem.

- (a) the father of the infant is dead and no guardian has been appointed in respect of the infant by the Court; or
- (b) the father of the infant is by reason of his absence from the Island of Alderney, his incapacity or otherwise, unable to represent the infant in such proceedings;

the Court may appoint a person to act as guardian ad litem of the infant for the purpose of such proceedings with the duty of safeguarding the interests of the infant before the Court.

20.—(1) Subject to the provisions of section twenty-five of this Law (which relates to an application where the respondent is outside the Island of Alderney), the Court shall not proceed to hear and determine an application for the revocation, revival or variation of an affiliation order or an application under subsection (1) of section sixteen of this Law (which relates to the continuance of payments in certain cases), unless there has been served on the respondent to the application not less than six days before the day on which the application is made to the Court a summons requiring him to appear before the Court on the day and at the time of the making of the

Summons  
required to  
be served on  
respondent  
to applica-  
tion for  
revocation,  
etc., of an  
affiliation  
order.

application and setting out shortly the matter of the application and the day and time on and at which the application is to be made to the Court:

PROVIDED that where the respondent to the application is the States of Guernsey Insurance Authority, the Court may proceed to hear and determine the application if it is proved to the satisfaction of the Court, on oath or affirmation, that a notice has been delivered or sent by registered post or the recorded delivery service to the President of the Authority aforesaid not less than six days before the day on which the application is made to the Court and setting out shortly the matter of the application and the day and time on and at which the application is to be made to the Court.

(2) A summons required to be served under subsection (1) of this section shall be served personally on the respondent to the application to which the summons relates by the Clerk of the Court.

(3) Where the respondent to any application to which the provisions of subsection (1) of this section apply is the Public Assistance Committee of the States of Alderney, the summons required to be served under that subsection shall be served on the President of that Committee in accordance with the provisions of that subsection and of the last preceding subsection.

## PART IV

### ENFORCEMENT OF MAINTENANCE ORDERS AND AFFILIATION ORDERS

Enforcement  
of  
maintenance  
orders and  
affiliation  
orders.

21.—(1) Subject to the following provisions of this section, if at any time after the expiration of fourteen days from the making of a maintenance order or affiliation order it is proved to the satisfaction of the

Court, on oath or affirmation, that default has been made in the payment of a sum ordered to be paid by the order, the Court may—

- (a) issue a summons against the person liable to make such payments requiring him to appear before the Court on such day and at such time as shall be specified in the summons to show cause why he should not be committed to prison under this section;
- (b) whether or not a summons has previously been issued, issue a warrant authorising an officer of police to arrest that person and bring him before the Court.

(2) A summons issued by the Court against any person under subsection (1) of this section shall be served not less than three days before the day on which that person is required by the summons to appear before the Court and shall be served personally on that person by the Clerk of the Court.

(3) A warrant shall not be issued by the Court under subsection (1) of this section against a person in respect of whom a summons has previously been issued under that subsection unless he has failed to appear before the Court on the day and at the time specified in the summons and it is proved to the satisfaction of the Court, on oath, that the summons has been served personally on that person.

(4) A warrant issued under subsection (1) of this section—

- (a) may include a direction that the person against whom it is issued shall be detained in such place as shall be specified in the warrant until he can be brought before the Court;
- (b) may be executed by an officer of police notwithstanding that it is not in his posses-



sion at the time; but the warrant shall, on the demand of the person arrested, be shown to him as soon as possible.

(5) Subject to the provisions of the next succeeding subsection, where a person appears before the Court in answer to a summons issued under subsection (1) of this section or is brought before the Court under a warrant issued under that subsection, as the case may be, the Court shall inquire in the presence of that person whether the default in respect of which such summons or warrant was issued was due to his wilful refusal or culpable neglect and if it is satisfied that the default was so due may order that person to be committed to prison for a period not exceeding one month.

(6) The Court shall not make an order under the last preceding subsection committing any person to prison in any case where the Court is of the opinion, having regard to all the circumstances of the case, including the means of that person, that it is more appropriate to enforce the payment of the sum in respect of which that person is in default—

- (a) by an order of the Court attaching not more than one-half of the wages, salary or pension of that person and directing the amount attached to be paid to the person specified in the order; or
- (b) by an order of the Court empowering the Clerk of the Court to arrest and sell so much of the goods and chattels of that person as shall be sufficient to satisfy that sum and any expenses incurred by the Clerk of the Court in carrying out the arrest and sale of such goods and chattels;

and in any case where the Court is of that opinion, the Court shall make such order as is mentioned in

paragraph (a) or paragraph (b) of this subsection as the Court thinks fit.

(7) An order such as is mentioned in paragraph (b) of the last preceding subsection shall have effect in respect of any wages, salary or pension falling to be paid from time to time to the person against whom such order is made until such time as the sum in respect of which that person is in default has been satisfied and such order shall be an authority to the person by whom any such wages, salary or pension are payable to make payments in accordance with the order until such time aforesaid and the receipt of the person to whom the payments are directed by such order to be made shall be a good discharge to the payor.

(8) For the purpose of the making of an order such as is mentioned in paragraph (a) of subsection (6) of this section, the Court may order any person appearing to the Court to be an employer of the person against whom such first-mentioned order is intended to be made to give to the Court, within such period as may be specified by the order under this subsection, a statement signed by him or on his behalf of such particulars as may be so specified of the wages or salary of the said person against whom such first-mentioned order is intended to be made and a document purporting to be such a statement shall be received in evidence and be deemed to be such a statement without further proof unless the contrary is shown.

(9) A person who—

- (a) fails to comply with an order under the last preceding subsection;
- (b) gives a statement in pursuance of such an order which he knows to be false in a material particular;

- (c) recklessly gives such a statement which is false in a material particular;

shall be liable, on conviction, to a fine not exceeding ten pounds.

Effect of  
order of  
committal to  
prison.

22. Where a person has been imprisoned by virtue of an order made under the last preceding section in respect of his failure to pay any sum due under a maintenance order or an affiliation order—

- (a) the imprisonment shall not operate to discharge him from his liability to pay the sum in respect of which he has been imprisoned;
- (b) notwithstanding anything in that section, no such Order under that section shall thereafter be made in respect of that sum or any part thereof.

Release from  
prison and  
reduction of  
period of  
imprison-  
ment on  
payment.

23.—(1) Subject to the provisions of subsection (2) of this section, where a person is imprisoned by virtue of an order made under section twenty-one of this Law (which relates to the enforcement of maintenance orders and affiliation orders) in respect of his failure to pay any sum due under a maintenance order or affiliation order, then—

- (a) on the payment of that sum, he shall be released from prison unless he is in prison for some other cause;
- (b) on the payment of part of that sum, the period for which he is so imprisoned shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears to so much of that sum and in calculating the reduction required under this subsection any fraction of a day shall be left out of account.

(2) No payment shall entitle any person to be released from prison or to the reduction of the period of his imprisonment under subsection (1) of this section unless it is received by the Clerk of the Court.

24.—(1) In any proceedings under this Law for the enforcement, revocation, revival or variation of a maintenance order or affiliation order the Court may by order remit the whole or any part of any sum due under the order. Power of the Court to remit arrears.

(2) If any person is, by virtue of an order made under section twenty-one of this Law (which relates to the enforcement of maintenance orders and affiliation orders), undergoing a period of imprisonment in respect of his failure to pay any sum due under a maintenance order or affiliation order at the time when the Court remits the whole or any part of that sum under subsection (1) of this section, then—

- (a) in the case where the whole of that sum has been remitted by the Court, he shall be released from prison unless he is in prison for some other cause;
- (b) in the case where any part of that sum has been remitted by the Court, paragraph (b) of subsection (1) of the last preceding section shall apply in relation to the period of imprisonment imposed by such first-mentioned order as if payment of such part of that sum had been received by the Clerk of the Court.

## PART V

### MISCELLANEOUS

25.—(1) The Court may proceed to hear and determine an application under this Law for the revocation or variation of a maintenance order or affiliation Application where respondent is outside the Island of Alderney.

order in the absence of the respondent to the application notwithstanding that a summons has not been served on the respondent if—

- (a) the Court is satisfied that there is reason to believe that the respondent has been continuously outside the Island of Alderney during a period of not less than one month immediately preceding the making of the application; and
- (b) it is proved to the satisfaction of the Court, on oath or affirmation, that the applicant—
  - (i) has caused a notice in the form set out in the Schedule to this Law to be delivered to the respondent; or
  - (ii) has caused a notice in the form aforesaid to be sent by registered post or the recorded delivery service addressed to the respondent at his last known or usual place of abode or at his place of business or at such other address at which there is ground for believing that it will reach him; or
  - (iii) has caused a notice summarising the effect of the form aforesaid to be inserted in one or more newspapers on one or more occasions; and
- (c) the Court thinks it reasonable in all the circumstances to proceed to hear and determine the application.

(2) Where it is proposed to take any such steps as are mentioned in sub-paragraph (ii) or sub-paragraph (iii) of paragraph (b) of subsection (1) of this section, the applicant shall apply for directions to the Court and the taking of such steps shall be effective for the purposes of that subsection only if they were taken in accordance with the directions given by the Court.

(3) Nothing in this section shall be construed as authorising the Court to vary—

- (a) any provision in a maintenance order or affiliation order requiring payments to be made by any person by increasing the amount of such payments;
- (b) an order under Part II of this Law by adding thereto any provision requiring payments to be made by any person;

unless that person has appeared at the hearing of the application for the variation of the order or a summons has been served on that person in accordance with the provisions of this Law.

26.—(1) Any person who is under an obligation to make payments under a maintenance order or affiliation order shall give notice of any change of address to any person to whom he is required for the time being by the order to make the payments.

Notification of change of address by person liable to make payments under a maintenance order or affiliation order.

(2) Any person who without reasonable excuse fails to comply with subsection (1) of this section shall be liable, on conviction, to a fine not exceeding five pounds.

27.—(1) Notwithstanding anything in this Law, the Court may, in any case where it is satisfied that it is desirable so to do, order that any payments to be made under a maintenance order or affiliation order shall be made to the Clerk of the Court:

Payments under maintenance orders or affiliation orders through Clerk of the Court.

PROVIDED that an order under this subsection shall not affect the right of any person to proceed in his or her own name for the recovery of sums payable on his or her behalf under a maintenance order or affiliation order.

(2) The Clerk of the Court shall receive all such payments as may be ordered under subsection (1)

of this section to be made to him and shall, without making any deduction therefrom, remit any such payments received by him to the person for the time being entitled to such payments; and where any such payment or any part thereof is in arrear for seven days, the Clerk of the Court shall give notice in writing to the person for the time being entitled to such payments stating the particulars of the arrears.

(3) Where any payments under a maintenance order or affiliation order are ordered as aforesaid to be made to the Clerk of the Court and any such payments are in arrear, the Clerk of the Court shall, if the person for the time being entitled to such payments so requests in writing and unless it appears to the Clerk of the Court that it is unreasonable in the circumstances so to do, proceed in his own name for the recovery of such payments; but the said person shall have the same liability for all the costs properly incurred in and about the proceedings as if the proceedings had been taken by him.

#### Appeals.

28.—(1) An appeal shall lie to the Royal Court sitting as a Full Court (hereafter in this section referred to as “the Royal Court”) from the making of any order under this Law or from the refusal by the Court to make any such order, or from the revocation revival or variation by the Court of any such order.

(2) On an appeal against an affiliation order by the person adjudged to be the putative father of the child to whom the order relates, as well as on an appeal against a refusal to make an affiliation order, the Royal Court shall hear the evidence of the mother and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the other party, but the Royal Court shall not confirm the order appealed against or reverse the

refusal to make an order unless the evidence of the mother is corroborated in some material particular by other evidence to the Royal Court's satisfaction.

29.—(1) The Court may from time to time make Rules of Court. rules dealing generally with all matters of procedure and incidental matters arising out of this Law and for carrying this Law into effect.

30. This Law may be cited as the Separation, Citation. Maintenance and Affiliation Proceedings (Alderney) Law, 1964.



## SCHEDULE

## Section twenty-five

NOTICE TO PERSON OUTSIDE THE ISLAND OF ALDERNEY  
OF APPLICATION FOR REVOCATION OR VARIATION OF A  
MAINTENANCE ORDER OR AFFILIATION ORDER.

In the Court of Alderney.

To A. B.

An application is to be made by me the undersigned  
on the                      day of                      , 19      ,  
to the Court of Alderney under the Separation,  
Maintenance and Affiliation Proceedings (Alderney)  
Law, 1964, that the maintenance [or affiliation] order  
made by that Court on the                      day  
of                      , 19      , should be [revoked]  
[or varied by                      ].

The application will be heard by that Court on  
the                      day of                      , 19      ,  
at the hour of                      in the                      noon.

You may appear in person or be represented by  
an Advocate of the Royal Court of Guernsey. If you  
do neither, the Court may, if it thinks it reasonable,  
deal with the case in your absence.

Dated the                      day of                      , 19      .

(Signed)                      B. B.

R. H. VIDELO,  
Her Majesty's Greffier.