

PROJET DE LOI

ENTITLED

The Adoption (Guernsey) Law, 1960 *

[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. XVIII, p. 192; as amended by the Children and Young Persons (Guernsey) Law, 1967 (Ordres en Conseil Vol. XXI, p. 34); the States Children Board and Public Assistance (Amendment) (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 521); the Child Protection (Guernsey) Law, 1972 (Ordres en Conseil Vol. XXIII, p. 26); the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Adoption (Amendment) (Guernsey) Law, 1997 (No. VIII of 1997, Ordres en Conseil Vol. XXXVII, p. 130); the Adoption (Amendment) (Guernsey) Law, 2000 (No. XII of 2000, Ordres en Conseil Vol. XL, p. 371); the Children and Young Persons (Amendment) (Guernsey) Law, 2000 (No. III of 2001, Ordres en Conseil Vol. XLI, p. 151); the Adoption (Guernsey) (Amendment) Law, 2017 (No. XII of 2017); 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); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 (Alderney Ordinance No. VIII of 2018); and modified, in part, by the Adoption (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 380). This Law is applied to the Island of Alderney, in part, by the Age of Majority (Alderney) Law, 2001 (No. XXV of 2001, Ordres en Conseil Vol. XLI, p. 738); and, with exceptions, adaptations and modifications, by the Alderney (Application of Legislation) (Adoption) Ordinance, 1974 (Recueil d'Ordonnances Tome XIX, p. 247). This Law is prospectively applied, with modifications, to adoption orders within the meaning of the Adoption (Guernsey) Law, 1970 (*supra*) by that Law. See also the Court of Appeal (Guernsey) Law, 1961 (Ordres en Conseil Vol. XVIII, p. 315); the Adoption (Guernsey) Law, 1966 (Ordres en Conseil Vol. XX, p. 262); the Adoption (Guernsey) Law, 1970 (*supra*); 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 Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (*supra*).

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The Adoption (Guernsey) Law, 1960

THE STATES, in pursuance of their Resolution of the thirty-first day of July, nineteen hundred and fifty-seven, 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

Interpretation

Interpretation.

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 –

"adoption order" has the meaning assigned to it by section two of this Law,

"authorised medical practitioner" means a medical practitioner authorised to practise as such in the Island according to the law for the time being in force,

"[the Committee]" means the [Committee for Health & Social Care],

"body of persons" means any body of persons, whether incorporated

or unincorporated,

["**civil partner**" means a person who has registered as the civil partner of another person under the Civil Partnership Act 2004^{*}, or who is treated under that Act as having formed a civil partnership by virtue of having registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled, and "**civil partners**" and "**civil partnership**" is to be construed accordingly,

"couple" means –

- (a) a married couple, or
- (b) two people who are civil partners of each other, or
- (c) two people, whether of different sexes or the same sex, living as partners in an enduring family relationship, not including two people one of whom is the other's parent, grandparent, sister, brother, aunt or uncle,]

"the Court" means the Royal Court sitting as an Ordinary Court,

"father", in relation to an illegitimate infant, means the natural father,

"guardian", in relation to an infant, means a person appointed by a court of competent jurisdiction to be the guardian of the infant,

"infant" means a person under [eighteen] years of age, but does not

^{*} An Act of Parliament (2004 c. 33).

include a person who is or has been married,

"the Island" means the Island of Guernsey and includes the Islands of Herm and Jethou,

"the Law of 1917" means the Law entitled "Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes" registered on the tenth day of February, nineteen hundred and seventeen,

"officer of police" means a member of the salaried police force of the Island,

[**"partner"** means one of two people in a couple,]

"place of safety" has the meaning assigned to it by the Law of 1917,

"prescribed", in Part II of this Law, means prescribed by rules under section ten of this Law,

"Registrar" means the Registrar of Births and Deaths for the Island,

"Registrar-General" means the Registrar-General of Births and Deaths for the Bailiwick of Guernsey,

"relative", in relation to an infant, means a grandparent, brother, sister, uncle or aunt, whether of the full blood or half-blood or by affinity, and includes –

- (a) where an adoption order has been made in respect of the infant or any other person, any person who would be a relative of the infant within the meaning of this

definition if the adopted person were the child of the adopter born in lawful wedlock,

- (b) where the infant is illegitimate, the father of the infant and any person who would be a relative of the infant within the meaning of this definition if the infant were the legitimate child of his mother and father,

"the upper limit of the school age" means the age at which education ceases to be compulsory by law.

(2) For the purposes of this Law, a person shall be deemed to make arrangements for the adoption of an infant or to take part in arrangements for the placing of a child in the care or possession of another person, if (as the case may be) –

- (a) he enters into or makes any agreement or arrangement for, or for facilitating, the adoption of the infant by any other person, whether the adoption is effected, or is intended to be effected, in pursuance of an adoption order or otherwise, or
- (b) he enters into or makes any agreement or arrangement for, or facilitates, the placing of the child in the care or possession of that other person,

or if he initiates or takes part in any negotiations of which the purpose or effect is the conclusion of any agreement or the making of any arrangement therefor, or if he causes another to do so.

(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 including this Law.

NOTES

In section 1,

the words, first, "the Committee" and, second, "Committee for Health & Social Care" in square brackets in the definition of the expression "the Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6 and section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016;¹

the definitions of the expressions, first, "civil partner" and "couple" and, second, "partner" in subsection (1) were inserted by the Adoption (Guernsey) (Amendment) Law, 2017, respectively section 2 and section 3, with effect from 13th November, 2017;

the word in square brackets in the definition of the expression "infant" in subsection (1) was substituted by the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(3), with effect from 1st July, 1978.

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.²

The Law is applied to the Island of Alderney by the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, with effect from 1st July, 1974, subject to the exceptions, adaptations and modifications set out in the right-hand column of the Schedule to the 1974 Ordinance.

In its application to the Island of Alderney, section 1 is modified in accordance with the provisions of:

the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974; and

the Age of Majority (Alderney) Law, 2001, section 1(4), with effect from 14th December, 2001, subject to the transitional and savings provisions in section 1(5) of and the Schedule to the 2001 Law.

The following case has referred to this Law:

In the Matter of Q (A Minor) 2009-10 GLR 368.

In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 16, 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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

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.

PART II

Adoption orders

Power to make adoption orders.

2. (1) Subject to the provisions of this Law, the Court may, upon an application made in the prescribed manner by a person domiciled in the Island, make an order (hereafter in this Law referred to as "**an adoption order**") authorising the applicant to adopt an infant.

(2) An adoption order may be made on the application of [a couple] authorising them jointly to adopt an infant; but an adoption order shall not in any other case be made authorising more than one person to adopt an infant.

(3) An adoption order may be made authorising the adoption of an

infant by the mother or father of the infant, either alone or jointly with her or his [partner].

(4) An adoption order may be made in respect of an infant who has already been the subject of an adoption order; and in relation to an application for an adoption order in respect of such an infant, the adopter or adopters under the previous or last previous adoption order shall be deemed to be the parent or parents of the infant for all the purposes of this Law.

(5) Subject to the provisions of section eleven of this Law, an adoption order shall not be made unless the applicant and the infant reside in the Island.

NOTES

In section 2, the words in square brackets in, first, subsection (2) and, second, subsection (3) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 4, respectively paragraph (a) and paragraph (b), with effect from 13th November, 2017.

In accordance with the provisions of the Adoption (Guernsey) Law, 1970, section 11(3), with effect from 1st June, 1979, the references in subsection (4) of this section to an order previously made and to the previous and last previous order shall be construed as including references to an adoption order under the 1970 Law, a specified order and an overseas adoption.

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 references in this section to "parent" (or "parents") 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.

Age and sex of applicant.

3. (1) Subject to the provisions of subsection (2) of this section, an adoption order shall not be made in respect of an infant unless the applicant –

- (a) is the mother or father of the infant,
- (b) is a relative of the infant, and has attained the age of twenty years, or
- (c) has attained the age of twenty-five years.

(2) An adoption order may be made in respect of an infant on the joint application of [a couple] –

- (a) if either of the applicants is the mother or father of the infant, or
- (b) if the condition set out in paragraph (b) or paragraph (c) of subsection (1) of this section is satisfied in the case of one of the applicants, and the other of them has attained the age of twenty years.

(3) An adoption order shall not be made in respect of an infant who is female in favour of a sole applicant who is male, unless the Court is satisfied that there are special circumstances which justify as an exceptional measure the making of an adoption order.

NOTE

In section 3, the words in square brackets in subsection (2) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 5, with effect from 13th November, 2017.

Care and possession of infants before adoption and notification of [Committee].

4. (1) An adoption order shall not be made in respect of any infant

unless he has been continuously in the care and possession of the applicant for at least three consecutive months immediately preceding the date of the order, not counting any time before the date which appears to the Court to be the date on which the infant attained the age of six weeks.

(2) Except where the applicant or one of the applicants is a parent of the infant, an adoption order shall not be made in respect of an infant who at the hearing of the application is below the upper limit of the school age unless the applicant has, at least three months before the date of the order, given notice in writing to [the Committee] of his intention to apply for an adoption order in respect of the infant.

NOTES

In section 4, and the marginal note thereto, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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.

Consents.

5. (1) Subject to the provisions of the next following section, an adoption order shall not be made –

- (a) in any case, except with the consent of every person who is a parent or guardian of the infant,
- (b) [on the application of one of a couple, except with the

consent of the other].

(2) The consent of any person to the making of an adoption order in pursuance of an application may be given (either unconditionally or subject to conditions with respect to the religious persuasion in which the infant is proposed to be brought up) without knowing the identity of the applicant for the order.

[(3) The reference in paragraph (a) of subsection (1) of this section to a parent of an infant does not include a reference to any person other than a father or mother who has parental responsibility in respect of that infant under the Children (Guernsey and Alderney) Law, 2008.]

NOTES

In section 5,

paragraph (1)(b) was substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 6, with effect from 13th November, 2017;

subsection (3) (which was previously substituted by the Children and Young Persons (Guernsey) Law, 1967, section 37, Second Schedule, Part I, with effect from 29th November, 1967) was substituted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 13(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

In its application to the Island of Alderney, section 5 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

The following case has referred to section 5:

In the Matter of Q (A Minor) 2009-10 GLR 368.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Power to dispense with consent.

6. (1) The Court may dispense with any consent required by paragraph (a) of subsection (1) of the last foregoing section if it is satisfied that the person whose consent is to be dispensed with –

- (a) has abandoned, neglected or persistently ill-treated the infant, or
- (b) cannot be found or is incapable of giving his consent or is withholding his consent unreasonably.

(2) If the Court is satisfied that any person whose consent is required by the said paragraph (a) has persistently failed without reasonable cause to discharge the obligations of a parent or guardian of the infant, the Court may dispense with his consent whether or not it is satisfied of the matters mentioned in subsection (1) of this section.

(3) Where a person who has given his consent to the making of an adoption order without knowing the identity of the applicant therefor subsequently withdraws his consent on the ground only that he does not know the identity of the applicant, his consent shall be deemed for the purposes of this section to be unreasonably withheld.

(4) The Court may dispense with the consent of the [partner] of an applicant for an adoption order if it is satisfied that the person whose consent is to be dispensed with cannot be found or is incapable of giving his consent or that the [couple] have separated and are living apart and that the separation is likely to be permanent.

NOTES

In section 6, the words in the first and second pairs of square brackets in subsection (4) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 7, respectively paragraph (a) and paragraph (b), with effect from 13th November, 2017.

The following case has referred to section 6:

In the Matter of Q (A Minor) 2009-10 GLR 368.

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section of that section are satisfied.

Evidence of consent of parent or guardian.

7. (1) Where a parent or guardian of an infant does not attend in the proceedings on an application for an adoption order for the purpose of giving his consent to the making of the order, then, subject to the provisions of the next following subsection, a document signifying his consent to the making of such an order shall, if the person in whose favour the order is to be made is named in the document or (where the identity of that person is not known to the consenting party) is distinguished therein in the prescribed manner, be admissible as evidence of that consent, whether the document is executed before or after the commencement of the proceedings; and where any such document is attested as mentioned in subsection (3) of this section, it shall be admissible as aforesaid without further proof of the signature of the person by whom it is executed.

(2) A document signifying the consent of the mother of an infant shall not be admissible under this section unless –

- (a) the infant is at least six weeks old on the date of the execution of the document, and
- (b) the document is attested on that date as mentioned in the next following subsection.

(3) Any reference in this section to a document being attested as mentioned in this subsection is, if the document is executed in the Island, a reference to its being attested by a Jurat and, if it is executed outside the Island, a reference to its being attested by a person of any such class as may be prescribed.

(4) For the purposes of this section a document purporting to be attested as mentioned in the last foregoing subsection shall be deemed to be so attested, and to be executed and attested on the date and at the place specified in the document, unless the contrary is proved.

NOTES

In its application to the Island of Alderney, section 7 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this

section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Functions of the Court as to adoption orders.

8. (1) The Court before making an adoption order shall be satisfied –
- (a) that every person whose consent is necessary under this Law, and whose consent is not dispensed with, has consented to and understands the nature and effect of the adoption order for which application is made, and in particular in the case of any parent understands that the effect of the adoption order will be permanently to deprive him or her of his or her parental rights,
 - (b) that the order if made will be for the welfare of the infant, and
 - (c) that the applicant has not received or agreed to receive, and that no person has made or given or agreed to make or give to the applicant, any payment or other reward in consideration of the adoption except such as the Court may sanction.
- (2) In determining whether an adoption order if made will be for the welfare of the infant, the Court shall have regard (among other things) to the health of the applicant, as evidenced, in cases as may be prescribed, by the certificate of an authorised medical practitioner, and shall give due consideration to the wishes of the infant, having regard to his age and understanding.
- (3) The Court in an adoption order may impose such terms and

conditions as the Court may think fit, and in particular may require the adopter by bond or otherwise to make for the infant such provision (if any) as in the opinion of the Court is just and expedient.

NOTE

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.

Interim orders.

9. (1) Subject to the provisions of this section, the Court may, upon any application for an adoption order, postpone the determination of the application and make an interim order giving the custody of the infant to the applicant for a period not exceeding two years by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the infant and otherwise as the Court may think fit.

(2) All such consents as are required to an adoption order shall be necessary to an interim order but subject to a like power on the part of the Court to dispense with any such consent.

(3) An interim order shall not be made in any case where the making of an adoption order would be unlawful by virtue of section four of this Law.

(4) Where an interim order has been made giving the custody of an infant to the applicant for a period of less than two years, the Court may by order extend that period, but the total period for which the custody of the infant is given to the applicant under the order as varied under this subsection shall not exceed two

years.

(5) [On] interim order shall not be deemed to be an adoption order within the meaning of this Law.

NOTE

The word in square brackets in subsection (5) shown, incorrectly, in the printed version of this section as "On" should read "An".

Rules of procedure.

10. (1) Rules in regard to any matter to be prescribed under this Part of this Law and dealing generally with all matters of procedure and incidental matters arising out of this Part of this Law and for carrying this Part of this Law into effect shall be made by the Royal Court.

(2) Such rules may provide –

- (a) for applications for adoption orders being heard and determined otherwise than in open court,
- (b) for excluding or restricting the jurisdiction of the Court where a previous application made by the same applicant in respect of the same infant has been refused by the Court,
- (c) for enabling any fact tending to establish the identity of an infant with an infant to whom any document relates to be proved by affidavit and for excluding or restricting in relation to any facts that may be so proved the power of the Court to compel the attendance of

witnesses.

(3) The Court shall, subject to any rules under this section, appoint some person to act as guardian *ad litem* of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the Court.

NOTES

The following Rules have been made by Order of the Royal Court under section 10:

*Royal Court (Adoption) (Guernsey and Alderney) Rules, 2006;
Royal Court (Adoption) (Guernsey and Alderney) (Amendment)
Rules, 2017.⁴*

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Modification of foregoing provisions in the case of applicants not ordinarily resident in the Island.

11. (1) Notwithstanding anything in this Law contained, an adoption order may be made on the application of a person who is not ordinarily resident in the Island; and in relation to such an application subsection (5) of section two of this Law does not apply.

(2) Where an application for an adoption order is made jointly by [a couple] who are not, or one of whom is not, ordinarily resident in the Island, the notice required by subsection (2) of section four of this Law may be given by either of the applicants; and the provisions of subsection (1) of that section shall be deemed to be complied with if they are complied with in the case of one of the applicants and the applicants have been living together in the Island for at least one of the three

months mentioned in that subsection.

(3) This section does not affect the construction of subsection (1) of the said section four in its application to any joint application to which subsection (2) of this section does not apply.

NOTE

In section 11, the words in square brackets in subsection (2) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 8, with effect from 13th November, 2017.

Rights and duties of parents and capacity to marry.

12. (1) Upon an adoption order being made, all rights, duties, obligations and liabilities of the parents or guardians of the infant in relation to the future custody, maintenance and education of the infant, including all rights to consent or give notice of dissent to marriage, shall be extinguished, and all such rights, duties, obligations and liabilities shall vest in and be exercisable by and enforceable against the adopter as if the infant were a child born to the adopter in lawful wedlock; and in respect of the matters aforesaid and in respect of the liability of an infant to maintain his parents the infant shall stand to the adopter exclusively in the position of a child born to the adopter in lawful wedlock.

(2) In any case [where a couple adopt an infant, the couple] shall in respect of the matters aforesaid, and for the purpose of the jurisdiction of any court to make orders as to the custody and maintenance of and right of access to children, stand to each other and to the infant in the same relation as they would have stood if they had been the lawful [parents] of the infant and the infant shall stand to them in the same relation as to [the lawful parents].

(3) For the purpose of the law relating to marriage, an adopter and the person whom he has been authorised to adopt under an adoption order shall be

deemed to be within the prohibited degrees of consanguinity; and the provisions of this subsection shall continue to have effect notwithstanding that some person other than the adopter is authorised by a subsequent order to adopt the same infant.

NOTES

In section 12,

the words in the first pair of square brackets in subsection (2) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 9, with effect from 13th November, 2017;

the words in the second and third pairs of square brackets in subsection (2) were substituted by, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 1, Schedule 1, Part I, paragraph 6(a), with effect from 2nd May, 2017 and, second (in relation to Alderney), by the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 1, Schedule 1, Part I, respectively paragraph 5(a) and paragraph 5(b), with effect from 14th June, 2018.

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 references in this section to "parents" 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, fathers or mothers who have parental responsibility in respect of the child.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardians", guardians or persons referred to as such have parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Friendly societies, insurance, etc.

13. (1) For the purposes of the enactments for the time being in force relating to friendly societies, collecting societies or industrial insurance companies, an adopter shall be deemed to be the parent of the infant whom he is authorised to adopt under an adoption order.

(2) Where, before the making of an adoption order in respect of an infant, the natural parent of the infant has effected an insurance with any such society or company for the payment, on the death of the infant, of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption order be transferred to the adopter and the adopter shall, for the purposes of the said enactments, be treated as the person who took out the policy.

(3) In section twelve of the Married Women's Property Law, 1928 (which makes provision as to policies of assurance effected for the benefit of children), references to a person's children shall include, and be deemed always to have included, references to children adopted by that person under an adoption order.

NOTES

In its application to the Island of Alderney, section 13 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

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 references 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.

In accordance with the provisions of the Adoption (Guernsey) Law, 1970, section 5(2), with effect from 1st June, 1979, subsection (2) of this section shall have effect as if any reference to an adoption order within the meaning of this Law included a reference to an overseas adoption.

Affiliation orders, etc.

14. (1) Where an adoption order is made in respect of an infant who is illegitimate, then, unless the adopter is his mother and the mother is a single woman, any affiliation order in force with respect to the infant, and any agreement whereby the father of the infant has undertaken to make payments specifically for the benefit of the infant, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the order or agreement at the date of the adoption order.

(2) After an adoption order has been made in respect of an infant who is illegitimate, no affiliation order shall be made with respect to the infant unless the adoption order was made on the application of the mother of the infant alone.

[(3) Where an adoption order is made in respect of an infant who is the subject of any order granting parental responsibility under the Children (Guernsey and Alderney) Law, 2008, the latter order shall cease to have effect.]

[(4) ...]

NOTES

In section 14,

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

subsection (4), which was originally inserted by the Child Protection (Guernsey) Law, 1972, section 33(1), Schedule, Part I, with effect from 1st May, 1972, was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(4)(b), with effect from 6th March, 2001.

In its application to the Island of Alderney, section 14 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July,

1974.

In accordance with the provisions of the Adoption (Guernsey) Law, 1970, section 5(2), with effect from 1st June, 1979, this section shall have effect as if any reference to an adoption order within the meaning of this Law included a reference to an overseas adoption.

Intestacies and wills, etc.

15. (1) Where, at any time after the making of an adoption order, the adopter or the adopted person or any other person dies intestate in respect of any real or personal property, that property shall devolve in all respects as if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person.

(2) In any disposition of real or personal property made, whether by instrument *inter vivos* or by will (including codicil) after the date of an adoption order –

- (a) any reference (whether express or implied) to the child or children of the adopter shall, unless the contrary intention appears, be construed as, or as including, a reference to the adopted person,
- (b) any reference (whether express or implied) to the child or children of the adopted person's natural parents or either of them shall, unless the contrary intention appears, be construed as not being, or as not including, a reference to the adopted person, and
- (c) any reference (whether express or implied) to a person related to the adopted person in any degree shall, unless the contrary intention appears, be construed as a reference to the person who would be related to him in

that degree if he were the child of the adopter born in lawful wedlock and were not the child of any other person.

- (3) Where a person has been adopted under an adoption order –
 - (a) the Law entitled "Loi relative au Retrait Lignager, aux Appropriements, et à la Lecture de Contrats aux Plaids d'Héritage" registered on the twelfth day of January, nineteen hundred and twenty-four,
 - (b) the Law entitled "Loi relative à la Portion Disponible des Biens Meubles des Pères et Mères" registered on the twentieth day of January, nineteen hundred and thirty (hereafter in this Law referred to as "**the Law of 1930**"), and
 - (c) the Law of Inheritance, 1954,

shall have effect in all respects as if the adopted person were the child of the adopter born in lawful wedlock and were not the child of any other person.

NOTES

In its application to the Island of Alderney, section 15 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

The Loi relative au Retrait Lignager, aux Appropriements, et à la Lecture de Contrats aux Plaids d'Héritage, 1924, has since been repealed by the Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006, section 32(2), with effect from 8th May, 2008, subject to the saving in section 32(3) of the 2006 Law.

The Loi relative à la Portion Disponible des Biens Meubles des Pères et Mères, 1930 has since been repealed by the Inheritance (Guernsey) Law, 2011, section 2(b), with effect from 2nd April, 2012.

The Loi relative au retrait lignager, aux appropriations, et à la lecture de contrats aux Plaids d'Héritage (Auregny) has since been repealed by the Retrait Lignager (Abolition) (Alderney) Law, 2015, section 2(a), with effect from 26th November, 2015.

The Loi relative à la Portion Disponible des Biens Meubles des Pères et Mères (Auregny), 1930 has since been repealed by the Inheritance (Alderney) Law, 2015, section 57(d), with effect from 16th December, 2015.

Provisions supplementary to section fifteen.

16. (1) As respects the devolution on intestacy of any real or personal property in accordance with the provisions of the last foregoing section, and for the purposes of the construction of any such disposition as is mentioned in that section, an adopted person shall be deemed to be related to any other person being the child or adopted child of the adopter or (in the case of a joint adoption) of either of the adopters –

- (a) where he or she was adopted by [a couple] jointly, and that other person is the child or adopted child of both of them, as brother or sister of the whole blood,
- (b) in any other case, as brother or sister of the half-blood.

(2) For the purposes of subsection (2) of the last foregoing section, a disposition made by will or codicil shall be treated as made on the date of the death of the testator.

(3) Notwithstanding anything in the last foregoing section, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any

interest therein, and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this subsection shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

(4) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of the last foregoing section –

- (a) in relation to the devolution of any property on the death of a person dying intestate after the date of the subsequent adoption order,
- (b) in relation to any disposition of property made, or taking effect on the death of a person dying, after that date, and
- (c) in relation to the devolution of that part of the personal property of any person which is not disposable testamentarily under the provisions of the Law of 1930, as amended by subsection (3) of that section, on the death of such person dying after that date.

NOTES

In section 16, the words in square brackets in subsection (1)(a) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 10, with effect from 13th November, 2017.

In accordance with the provisions of the Adoption (Guernsey) Law, 1970, section 5(2), with effect from 1st June, 1979, subsection (3) of this section shall have effect as if any reference to an adoption order within the meaning of this Law included a reference to an overseas adoption.

Adopted Children Register.

17. (1) The Registrar shall maintain at the Greffe Office a register (to be called, and hereafter in this Law referred to as, "**the Adopted Children Register**"), in which shall be made such entries as may be directed to be made therein by adoption orders, but no other entries.

(2) A certified copy or an extract of any entry in the Adopted Children Register, if purporting to be stamped with the official seal of the Registrar-General, shall, without any further or other proof of that entry, be received as evidence of the adoption to which it relates and, where the entry contains a record of the date of the birth or the country of the birth of the adopted person, shall also be received as aforesaid as evidence of that date or country in all respects as if the copy or extract, as the case may be, were a certified copy or an extract of an entry in the Register of Births.

(3) The Registrar shall cause an index of the Adopted Children Register to be made and kept in the Greffe Office; and every person shall be entitled to search that index and the Adopted Children Register and to have a certified copy or an extract of any entry in the Adopted Children Register in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Law entitled "Loi relative à l'Enregistrement des Naissances et Décès dans le Bailliage de l'Île de Guernesey" registered on the ninth day of March, nineteen hundred and thirty-five, in respect of searches in other indexes and registers kept in the Greffe Office and in respect of the supply from that office of certified copies or extracts of entries in the Register of Births.

(4) The Registrar shall, in addition to the Adopted Children Register and the index thereof, keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection

between any entry in the Register of Births which has been marked "Adopted" pursuant to the next following section and any corresponding entry in the Adopted Children Register.

(5) The registers and books kept under the last foregoing subsection shall not be, nor shall any index thereof be, open to public inspection or search nor, except under an order of the Court [or in accordance with section 20A(1)], shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

NOTES

In section 17, the words in square brackets in subsection (5) were inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(a), with effect from 1st November, 2001.

In its application to the Island of Alderney, section 17 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

Registration of adoptions.

18. (1) Every adoption order shall contain a direction by the Court to the Registrar to make in the Adopted Children Register an entry in the form set out in the Schedule to this Law, and (subject to the next following subsection) shall specify the particulars to be entered under the headings in columns 2 to 6 of that Schedule.

(2) For the purposes of compliance with the requirements of subsection (1) of this section –

- (a) where the precise date of the infant's birth is not proved to the satisfaction of the Court, the Court shall determine the probable date of his birth and the date so

determined shall be specified in the order as the date of his birth,

- (b) where the country of birth of the infant is not proved to the satisfaction of the Court, then, if it appears probable that the infant was born within the British Islands, he shall be treated as having been born in the Island, and in any other case the particulars of the country of birth may be omitted from the order and from the entry in the Adopted Children Register,

and the names to be specified in the order as the name and surname of the infant shall be the name or names and surname stated in that behalf in the application for the adoption order, or, if no name or surname is so stated, the original name or names of the infant and the surname of the applicant.

(3) Where upon any application to the Court for an adoption order in respect of an infant (not being an infant who has previously been the subject of an adoption order) there is proved to the satisfaction of the Court the identity of the infant with a child to whom an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar to cause the entry in the Register of Births to be marked with the word "Adopted".

(4) Where an adoption order is made in respect of an infant who has previously been the subject of an adoption order, the order shall contain a direction to the Registrar to cause the previous entry in the Adopted Children Register to be marked with the word "Re-adopted".

(5) The Registrar shall cause compliance to be made with the directions contained in an adoption order.

NOTE

In its application to the Island of Alderney, section 18 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

Amendment of orders and rectification of Register.

19. (1) Where an adoption order has been made, the Court may, on the application of the adopter or of the adopted person, amend the order by the correction of any error in the particulars contained therein, and may –

- (a) if satisfied on the application of the adopter or of the adopted person that within one year beginning with the date of the order any new name has been given to the adopted person (whether in baptism or otherwise), or taken by him, either in lieu of or in addition to a name specified in the particulars required to be entered in the Adopted Children Register in pursuance of the order, amend the order by substituting or adding that name in those particulars, as the case may require,
- (b) if satisfied on the application of any person concerned that a direction for the marking of an entry in the Register of Births or the Adopted Children Register included in the order in pursuance of subsection (3) or subsection (4) of the last foregoing section was wrongly so included, revoke that direction.

(2) Where an adoption order is amended or a direction revoked under subsection (1) of this section, the Registrar shall, as the case may require –

- (a) cause the entry in the Adopted Children Register to be amended accordingly, or
- (b) cause the marking of the entry in the Register of Births or the Adopted Children Register to be cancelled.

(3) Where an adoption order is quashed or an appeal against an adoption order allowed, the Royal Court shall give directions to the Registrar to cancel any entry in the Adopted Children Register, and any marking of an entry in that Register or the Register of Births, as the case may be, which was effected in pursuance of the order.

(4) Where an adoption order has been amended, any certified copy of the relevant entry in the Adopted Children Register which may be issued pursuant to subsection (3) of section seventeen of this Law shall be a copy of the entry as amended, without the reproduction of any note or marking relating to the amendment or of any matter cancelled pursuant thereto; and a copy or extract of an entry in any register, being an entry the marking of which has been cancelled shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

NOTE

In its application to the Island of Alderney, section 19 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

Legitimation: revocation of adoption orders and cancellations in Registers.

20. (1) Where any person adopted under this Law by his father or mother alone has subsequently become a legitimated person on the marriage of his father and mother, the Court may, on the application of any of the parties concerned,

revoke the adoption order by which he was so adopted.

(2) Where an adoption order is revoked under this section, the Registrar shall cause to be cancelled –

- (a) the entry in the Adopted Children Register relating to the adopted person, and
- (b) the marking with the word "Adopted" of any entry relating to him in the Register of Births,

and a copy or extract of an entry in any register, being an entry the marking of which is cancelled under this section, shall be deemed to be an accurate copy if and only if both the marking and the cancellation are omitted therefrom.

NOTE

In accordance with the provisions of the Adoption (Guernsey) Law, 1966, section 4(3), with effect from 5th July, 1966, the references in subsection (2) of this section to "this section" shall be construed as including a reference to subsection (1) of section 4 of the 1966 Law.

[PART IIA

Disclosure of birth records and Adoption Contact Register

Disclosure of birth records of adopted children.

20A. (1) On an application made in the specified manner by an adopted person –

- (a) a record of whose birth is kept by the Registrar, and

- (b) who has attained the age of 18 years,

the Registrar must, subject to section 20B, give the applicant such information as is necessary to enable the applicant to obtain a certified copy of the record of his birth.

(2) On an application made by an adopted person a record of whose birth is kept by the Registrar and who –

- (a) is under the age of 18 years, and

- (b) intends to be married in the Island,

the Registrar must inform the applicant whether or not it appears from information contained in the Register of Births or other records that the applicant and the person whom the applicant intends to marry may be within the prohibited degrees of relationship for the purposes of the Law entitled "Loi sur les Empêchements au Mariage à cause de Parenté, et sur l'Établissement de la Juridiction Civile dans les Causes Matrimoniales", registered on the 21st day of March, 1936^{**}, and the Marriage (Enabling) (Guernsey) Law, 1961^{***} [or (as the case may be) section 11 of the Same-Sex Marriage (Guernsey) Law, 2016][, or (as the case may be) section 11 of the Same-Sex Marriage (Alderney) Law, 2017].

(3) The duty to give any information under this section, where a fee for giving that information is prescribed by an order made by [the Committee] and the Registrar has demanded the fee, only arises if the fee has been paid.

(4) In this section "**specified**" means specified by an order made by [the Committee].]

^{**} Ordres en Conseil Vol. X, p. 308.

^{***} Ordres en Conseil Vol. XVIII, p. 312.

NOTES

Part IIA, and section 20A thereof, were inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(b), with effect from 1st November, 2001.

In section 20A,

the words in square brackets in subsection (2) were inserted by, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 1, Schedule 1, Part I, paragraph 6(b), with effect from 2nd May, 2017 and, second (in relation to Alderney), by the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 1, Schedule 1, Part I, paragraph 5(b), with effect from 14th June, 2018;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The following Order has been made under section 20A:

Adoption (Birth Records and Adoption Contact Register) Order, 2001.

The Loi sur les Empêchements au Mariage à cause de Parenté et sur l'Établissement de la Juridiction Civile dans les Causes Matrimoniales, 1936 and the Marriage (Enabling) (Guernsey) Law, 1961 have both since been repealed by the Marriage (Bailiwick of Guernsey) Law, 2020, section 67, Schedule, with effect from 1st March, 2021.

[Disclosure of birth records: counselling.]

20B. (1) Where a person applies for information under section 20A(1), the Registrar must not supply the information to the applicant unless the applicant has attended an interview with a counsellor arranged by [the Committee].

(2) Where the Registrar is prevented by subsection (1) from supplying the information to a person who is not living in the Island, the Registrar may supply the information to any body which –

(a) [the Committee] is satisfied is suitable to provide counselling to that person, and

(b) has notified [the Committee] that it is prepared to provide such counselling.

(3) Where an adopted person who is in the Island is supplied with information under section 20A, [the Committee] must, if asked by the applicant to do so, provide counselling for the applicant.

(4) Where an adopted person has applied for information under section 20A(1), [the Committee] must, if asked by a relative of the adopted person to do so, provide counselling for him.]

NOTES

Section 20B was inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(b), with effect from 1st November, 2001.

In section 20B, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

[Adoption Contact Register.]

20C. (1) The Registrar must maintain at the Greffe Office in accordance with this section a register in two Parts to be called the Adoption Contact Register (in this Part referred to as "**the Register**").

(2) Part I of the Register must give the names and addresses of adopted persons who have given notice expressing their wish to be included in that Part; and the entry for each adopted person must state (in accordance with the notice

or a subsequent notice under section 20E(2)) that the adopted person wishes –

- (a) to make contact with all of his relatives,
- (b) to make contact only with such of his relatives as are described in the entry, or
- (c) not to make contact with any of his relatives.

(3) The Registrar may only make an entry in Part I of the Register for an adopted person –

- (a) a record of whose birth is kept by the Registrar,
- (b) who has attained the age of 18 years, and
- (c) who has been supplied by the Registrar with information under section 20A or who the Registrar is satisfied has such information as is necessary to enable him to obtain a certified copy of the record of his birth.

(4) Before making an entry in Part I of the Register for an adopted person, or accepting any fee for doing so, in a case where there is any entry in Part II of the Register for any relative of the adopted person which shows that the relative does not wish to make contact with the adopted person, the Registrar must inform the adopted person of that fact and of the nature of the relationship.

(5) Part II of the Register must give the names and addresses of persons who have given notice expressing their wish to be included in that Part as relatives of an adopted person and the addresses given by them for the purposes of the Register; and the entry for each relative must state (in accordance with the notice or a

subsequent notice under section 20E(2)) that the relative wishes, or does not wish, to make contact with the adopted person.

(6) The Registrar may only make an entry in Part II of the Register for a person –

- (a) who has attained the age of 18 years, and
- (b) who the Registrar is satisfied is a relative of an adopted person and has such information as is necessary to enable him to obtain a certified copy of the record of the adopted person's birth.

(7) Before making an entry in Part II of the Register for a relative of an adopted person, or accepting any fee for doing so, in a case where there is an entry in Part I of the Register for the adopted person which shows that the adopted person does not wish to make contact with the relative, the Registrar must inform the relative of that fact.]

NOTE

Section 20C was inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(b), with effect from 1st November, 2001.

[Adoption Contact Register: disclosure.

20D. (1) Where there is an entry in Part I of the Register which shows that an adopted person wishes to make contact with all of his relatives, the Registrar must give to the adopted person –

- (a) the name of any relative of his for whom there is an entry in Part II of the Register which shows that the

relative wishes to make contact with him, and

(b) the address shown for that relative in the Register.

(2) Where there is an entry in Part I of the Register which shows that an adopted person wishes to make contact with any of his relatives described in the entry, the Registrar must give to the adopted person –

(a) the name of any relative of that description for whom there is an entry in Part II of the Register which shows that the relative wishes to make contact with him, and

(b) the address shown for that relative in the Register.

(3) The Register is not to be open to public inspection or search.

(4) The Registrar must not supply any person with information entered in the Register except in accordance with section 20C or this section.]

NOTE

Section 20D was inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(b), with effect from 1st November, 2001.

[Adoption Contact Register: supplementary.]

20E. (1) The Register may be kept by means of a computer.

(2) The Registrar must amend or remove the entry for any person in the Register if the person gives notice requiring him to do so.

(3) Any notice given under section 20C or this section is to be in

such form as may be determined by [the Committee].

(4) The Registrar is not required to make an entry in the Register, or in prescribed circumstances to consider an application to make such an entry unless any prescribed fee has been paid; and in this subsection "**prescribed**" means prescribed by an order made by [the Committee].]

NOTES

Section 20E was inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(b), with effect from 1st November, 2001.

In section 20E, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The following Order has been made under section 20E:

Adoption (Birth Records and Adoption Contact Register) Order, 2001.

[Meaning of "relative".]

20F. In this Part "**relative**", in relation to an adopted person, means any person (other than an adoptive relative) who is related to the adopted person by blood (including half-blood) or marriage.]

NOTE

Section 20F was inserted by the Adoption (Amendment) (Guernsey) Law, 2000, section 1(b), with effect from 1st November, 2001.

PART III

Arrangements for adoption

Power of [Committee] to make arrangements for adoption.

21. (1) [The Committee] shall have power to make and participate in arrangements for the adoption of infants.

(2) [The Committee] shall not, in pursuance of any arrangements made by it for the adoption of an infant, place the infant in the care and possession of a person who proposes to adopt him if an adoption order in respect of the infant could not lawfully be made in favour of that person.

(3) The States may from time to time by Ordinance make provision with respect to the exercise by [the Committee] of its functions of making or participating in arrangements for the adoption of infants.

(4) In this section and in the next succeeding section the expression "[the Committee]" includes a Committee of [the Committee].

NOTES

In section 21, the words "Committee" and "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 21 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

The following Ordinances have been made under section 21:

Children Board (Regulation of Adoption Arrangements) Ordinance, 1961;

Children Board (Regulation of Adoption Arrangements) (Amendment) Ordinance, 1992.

Restriction on making of arrangements for adoption.

22. (1) It shall not be lawful for any body of persons, other than [the Committee], to make any arrangements for the adoption of an infant.

(2) Every person who –

(a) takes any part in the management or control of a body of persons, other than [the Committee], which exists wholly or in part for the purpose of making arrangements for the adoption of infants, or

(b) is guilty of a contravention of subsection (1) of this section,

shall, on summary conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding [level 2 on the uniform scale] or to both.

(3) In any proceedings for an offence under paragraph (a) of the last foregoing subsection, proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the management or control of a body of persons, or in making arrangements for the adoption of infants on behalf of the body, shall be admissible as evidence of the purpose for which that body exists.

NOTES

In section 22,

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

PART IV

Care and possession of infants awaiting adoption

Restriction on removal by parent or guardian after giving consent.

23. While an application for an adoption order in respect of an infant is pending, a parent or guardian of the infant who has signified his consent to the making of an adoption order in pursuance of the application shall not be entitled, except with the leave of the Court, to remove the infant from the care and possession of the applicant, and in considering whether to grant or refuse such leave the Court shall have regard to the welfare of the infant.

NOTES

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Return of infants placed by [Committee].

24. (1) Subject to the provisions of subsection (2) of this section, at any time after an infant has been delivered into the care and possession of any person in pursuance of arrangements made by [the Committee] or a Committee thereof for the adoption of the infant by that person, and before an adoption order has been made

on the application of that person in respect of the infant –

- (a) that person may give notice in writing to [the Committee] of his intention not to retain the care and possession of the infant, or
- (b) [the Committee] may cause notice in writing to be given to that person of its intention not to allow the infant to remain in his care and possession.

(2) After an application has been made for an adoption order in the case of an infant, no notice shall be given in respect of that infant under paragraph (b) of subsection (1) of this section except with the leave of the Court.

(3) Where a notice is given to [the Committee] by any person, or by [the Committee] to any person, under subsection (1) of this section, or where an application for an adoption order made by any person in respect of an infant placed in his care and possession by [the Committee] is refused by the Court or withdrawn, that person shall, within seven days after the date on which notice was given or the application refused or withdrawn, as the case may be, cause the infant to be returned to [the Committee], and [the Committee] shall receive the infant.

(4) Where the period specified in an interim order made under section nine of this Law (whether as originally made or as varied under subsection (4) of that section) expires without an adoption order having been made in respect of the infant, the last foregoing subsection shall apply as if the application for an adoption order upon which the interim order was made had been refused at the expiration of that period.

(5) It shall be sufficient compliance with the requirements of subsection (3) of this section if the infant is delivered to, and is received by, a suitable

person nominated for the purpose by [the Committee].

(6) Any person who contravenes the provisions of this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [level 2 on the uniform scale] or to both; and upon the conviction of any person of a contravention of these provisions the court by which that person is convicted may order the infant in respect of whom the offence is committed to be returned to his parent or guardian or to [the Committee].

NOTES

In section 24,

the words "Committee" and "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in square brackets in subsection (6) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Further provisions as to adoption of children in care of [Committee].

25. (1) Where notice of intention to apply for an adoption order is given in pursuance of subsection (2) of section four of this Law in respect of an infant

who is for the time being in the care of [the Committee], not being an infant who was delivered into the care and possession of the person by whom the notice is given in pursuance of such arrangements as are mentioned in subsection (1) of the last foregoing section, the said last foregoing section shall apply as if the infant had been so delivered, except that where the application is refused by the Court or withdrawn the infant need not be returned to [the Committee] unless [the Committee] so requires.

(2) Where notice of intention is given as aforesaid in respect of any infant who is for the time being in the care of [the Committee] then, until the application for an adoption order has been made and disposed of, any right of [the Committee] to require the infant to be returned to them otherwise than in pursuance of the last foregoing section shall be suspended; and while the infant remains in the care and possession of the person by whom the notice is given –

- (a) no contribution shall be payable (whether under a contribution order or otherwise) in respect of the infant by any person liable under the [Children and Young Persons (Guernsey) Law, 1967] to make contributions in respect of him (but without prejudice to the recovery of any sum due at the time the notice is given); and
- (b) [paragraph (b) or paragraph (f) of section eleven] of the Family Allowances (Guernsey) Law, 1950 (which provides that certain children in the care of [the Committee] shall not be treated as included in any family for the purposes of that Law) shall not apply in relation to the infant,

unless twelve weeks have elapsed since the giving of the notice without the application being made or the application has been refused by the Court or

withdrawn.

NOTES

In section 25,

the words "Committee" and "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words in square brackets in paragraph (a) and paragraph (b) of subsection (2) were substituted by the Children and Young Persons (Guernsey) Law, 1967, section 37, Second Schedule, Part I, with effect from 29th November, 1967.

In its application to the Island of Alderney, section 25 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

PART V

Supervision of children awaiting adoption or placed with strangers

Meaning of "protected child".

26. (1) Subject to the following provisions of this section, where –
- (a) arrangements are made for placing a child below the upper limit of the school age in the care and possession of a person who is not a parent, guardian or relative of his [but who proposes to adopt him], and another person, not being a parent or guardian of his, takes part in the arrangements, or
 - (b) notice of intention to apply for an adoption order in respect of a child is given under subsection (2) of

section four of this Law,

then, while the child is in the care and possession of the person first mentioned in paragraph (a) of this subsection or, as the case may be, of the person giving the notice mentioned in paragraph (b) thereof, [...] he is a protected child within the meaning of this Part of this Law.

(2) A child is not a protected child [...] while the child is in the care of [the Committee] or in the care of any person –

- (a) in any school,
- (b) in any hospital for the time being administered by the States,
- (c) in compliance with a probation order [or supervision order],
- [(d) by virtue of an order in force under the Children and Young Persons (Guernsey) Law, 1967, committing the child to the care of that person,]
- (e) by virtue of an Act of Court made under Article 5 of the Law entitled "Loi ayant rapport aux Faibles d'Esprit" registered on the fourth day of September, nineteen hundred and twenty-six.

(3) A child is not a protected child by reason of any such notice as is mentioned in paragraph (b) of subsection (1) of this section while he is in the care of [the Committee] or in the care of any person in any such school or hospital as is mentioned in the last foregoing subsection.

(4) A protected child ceases to be a protected child on the making of an adoption order in respect of him or on his attaining the age of eighteen, whichever first occurs.

(5) A child in the care and possession of [a couple] one of whom is a parent, relative or guardian of his shall be deemed for the purposes of this Part of this Law to be in the care and possession of that one of them.

NOTES

In section 26,

the words in square brackets in paragraph (a) of subsection (1) were inserted by the Child Protection (Guernsey) Law, 1972, section 33(1), Schedule, Part I, with effect from 1st May, 1972;

the words omitted in the second pair of square brackets in subsection (1) and in the first pair of square brackets in subsection (2) were repealed by the Child Protection (Guernsey) Law, 1972, section 33(2), Schedule, Part II, with effect from 1st May, 1972;

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words in square brackets in paragraph (c) of subsection (2) were inserted, and paragraph (d) of subsection (2) was substituted, by the Children and Young Persons (Guernsey) Law, 1967, section 37, Second Schedule, Part I, with effect from 29th November, 1967;

the words in square brackets in subsection (5) were substituted by the Adoption (Guernsey) (Amendment) Law, 2017, section 11, with effect from 13th November, 2017.

In its application to the Island of Alderney, section 26 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

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 references 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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

The Loi ayant rapport aux Faibles d'Esprit, 1926 has since been repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 2(a), with effect from 8th April, 2013.

Duty of [Committee] to secure well-being of protected children.

27. It shall be the duty of [the Committee] to secure that protected children are visited from time to time by a person authorised by [the Committee] in that behalf, who shall satisfy himself as to the well-being of the children and give such advice as to their care and maintenance as may appear to be needed.

NOTE

In section 27, the words "Committee" and "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Power to inspect premises.

28. A person authorised by [the Committee] to visit protected children may, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, inspect any premises in which protected children are to be or are being kept.

NOTE

In section 28, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Notices and information to be given to [Committee].

29. (1) Subject to the provisions of the next following subsection, where arrangements are made for the placing of a child in the care and possession of any person and by reason of the arrangements the child would be a protected child while in the care and possession of that person, every person taking part in the arrangements shall give notice in writing of the arrangements to [the Committee].

(2) A notice under subsection (1) of this section need not be given by the person in whose care and possession the child is to be placed, nor by a parent or guardian of the child.

(3) A notice under subsection (1) of this section shall be given not less than two weeks before the child is placed as mentioned in that subsection, except that where the child is so placed in an emergency, the notice may be given not later than one week after the child is so placed.

(4) Where a person who has a protected child in his care and possession changes his permanent address he shall, not less than two weeks before the change, or, if the change is made in an emergency, not later than one week after the change, give written notice specifying the new address to [the Committee].

(5) If a protected child dies, the person in whose care and possession he was at his death shall within forty-eight hours of the death give to [the Committee] notice in writing of the death.

(6) A person who has or proposes to have a protected child in his care and possession shall at the request of [the Committee] give them the following

particulars, so far as known to him, that is to say, the name, sex and date and place of birth of the child, and the name and address of every person who is a parent or guardian or acts as a guardian of the child or from whom the child has been or is to be received.

NOTES

In section 29, the words "Committee" and "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

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 references 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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Power of [Committee] to prohibit placing of child.

30. Where arrangements are made for the placing of a child in the care and possession of any person, and by reason of the arrangements the child would be a protected child while in the care and possession of that person, then, if [the Committee] or a Committee thereof did not take part in the arrangements and it appears to [the Committee] that it would be detrimental to the child to be kept by that person in the premises in which he proposes to keep him, it may by notice in writing given to that person prohibit him from receiving the child in those premises.

NOTE

In section 30, the words "Committee" and "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Appeal to the Court against prohibition under section thirty.

31. (1) A person aggrieved by a prohibition imposed under the last foregoing section may, within fourteen days from the date on which he is notified of the prohibition, appeal to the Court.

(2) The notice by which a prohibition is imposed under the last foregoing section shall contain a statement informing the person on whom it is imposed of his right to appeal against the prohibition and of the time within which he may do so.

Power of [Committee] to prohibit placing of child.

32. (1) Subject to the provisions of the next following subsection, the Court may, upon application being made to it in that behalf by [the Committee] and if satisfied that a protected child is being kept or is about to be received by any person who is unfit to have his care, or in contravention of any prohibition imposed by [the Committee] under section thirty of this Law, or in any premises or any environment detrimental or likely to be detrimental to him, make an order for his removal to a place of safety until he can be restored to a parent, relative or guardian of his or until other arrangements can be made with respect to him; and on proof that there is imminent danger to the health or well-being of the child the power to make an order under this section may be exercised by the Court on the application of a person authorised to visit protected children.

(2) [The Committee] shall cause a notice in writing of its intention to make an application to the Court for an order under this section in respect of any protected child to be served on the person by whom the child is being kept or is about to be received not less than three days before the day on which the application is

intended to be made; and the Court shall not make an order under this section upon such application unless such notice has been served on that person.

(3) An order under this section may be executed by a person authorised to visit protected children or by any officer of police.

(4) [The Committee] may receive into its care any child removed under this section, whether or not the child is a child in relation to whom the provisions of Article II of the Law entitled "Loi ayant rapport à l'Asile des Enfants" registered on the twenty-fourth day of November, nineteen hundred and twenty-eight, apply.

(5) Where a child is removed under this section [the Committee] shall, if practicable, inform a parent or guardian of the child, or any person who acts as his guardian.

NOTES

In section 32, the words "Committee" and "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 32 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

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 references 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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this

section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

[Avoidance of insurances on lives of protected children.]

32A. (1) A person who maintains a protected child shall be deemed to have no interest in the life assurance of the child and if such person, directly or indirectly, insures or attempts to insure the life of the child he shall be guilty of an offence.

(2) A person who knowingly issues or attempts to issue to or for the benefit of a person who is maintaining a protected child, or to any person on behalf of a person who is maintaining a protected child, a policy on the life of the child shall be guilty of an offence.

(3) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [level 2 on the uniform scale] or to both.]

NOTES

Section 32A was inserted by the Child Protection (Guernsey) Law, 1972, section 33(1), Schedule, Part I, with effect from 1st May, 1972.

In section 32A, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Offences under Part V.

33. (1) A person shall be guilty of an offence if –

- (a) being required, under any provision of this Part of this Law, to give any notice or information, he fails to give

the notice within the time specified in that provision or fails to give the information within a reasonable time, or knowingly makes or causes or procures another person to make any false or misleading statement in the notice or information,

- (b) he refuses to allow the visiting of a protected child by a person authorised to visit protected children or the inspection, under the power conferred by section twenty-eight of this Law, of any premises,
- (c) he keeps any child in any premises in contravention of a prohibition imposed under this Part of this Law,
- (d) he refuses to comply with an order under this Part of this Law for the removal of any child or obstructs any person in the execution of such an order.

(2) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [level 2 on the uniform scale] or to both.

NOTE

In section 33, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

PART VI

Miscellaneous and general

Prohibition of certain payments.

34. (1) Subject to the provisions of this section, it shall not be lawful to make or give to any person any payment or reward for or in consideration of –

- (a) the adoption by that person of an infant,
- (b) the grant by that person of any consent required in connection with the adoption of an infant,
- (c) the transfer by that person of the care and possession of an infant with a view to the adoption of the infant, or
- (d) the making by that person of any arrangements for the adoption of an infant.

(2) Any person who makes or gives, or agrees or offers to make or give, any payment or reward prohibited by this section, or who receives or agrees to receive or attempts to obtain any such payment or reward, shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [level 2 on the uniform scale] or to both; and the court by which that person is convicted may order any infant in respect of whom the offence was committed to be removed to a place of safety until he can be restored to his parents or guardian or until other arrangements can be made for him.

(3) This section does not apply to any payment made to [the Committee] by a parent or guardian of an infant or by a person who adopts or proposes to adopt an infant, being a payment in respect of expenses reasonably incurred by [the Committee] in connection with the adoption of the infant, or to any payment or reward authorised by the Court where an application for an adoption order in respect of an infant is made.

NOTES

In section 34,

the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

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 references in this section to "parent" (or "parents") 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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

[Permitted allowances.]

34A. (1) [The Committee] may make regulations for the purpose of enabling it to pay allowances to persons who have adopted, or intend to adopt, an infant in pursuance of arrangements made by [the Committee].

(2) Section 34(1) shall not apply to any payment made by [the Committee] in accordance with the regulations.

(3) The regulations may, in particular, make provision as to –

(a) the procedure to be followed by [the Committee] in determining whether a person should be paid an

allowance,

- (b) the circumstances in which an allowance may be paid,
- (c) the factors to be taken into account in determining the amount of an allowance,
- (d) the procedure for review, variation and termination of allowances, and
- (e) the information about allowances to be supplied by [the Committee] to any person who is intending to adopt an infant.

(4) Regulations of [the Committee] made under this section –

- (a) may be amended or revoked by subsequent regulations so made,
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to [the Committee] to be necessary or expedient,
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that meeting or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(5) Any power conferred upon [the Committee] by this section to make regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise);
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.]

NOTES

Section 34A was inserted by the Adoption (Amendment) (Guernsey) Law, 1997, section 1, with effect from 19th April, 1997.

In section 34A, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

The following Regulations have been made under section 34A:

Adoption Allowance Regulations, 1999.

Restriction upon advertisements.

35. (1) It shall not be lawful for any advertisement to be published indicating –

- (a) that the parent or guardian of an infant desires to cause the infant to be adopted, or
- (b) that a person desires to adopt an infant, or
- (c) that any person, not being [the Committee], is willing to make arrangements for the adoption of an infant.

(2) Any person who causes to be published or knowingly publishes an advertisement in contravention of the provisions of this section shall be liable, on summary conviction, to a fine not exceeding [level 1 on the uniform scale].

NOTES

In section 35,

the words in square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this

section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Restriction on removal of infants for adoption outside British Islands.

36. (1) Except under the authority of an order under the next following section, it shall not be lawful for any person to take or send an infant who is a British subject out of the Island to any place outside the British Islands with a view to the adoption of the infant (whether in law or in fact) by any person not being a parent or guardian or relative of the infant; and any person who takes or sends an infant out of the Island to any place in contravention of this subsection, or makes or takes part in any arrangements for transferring the care and possession of an infant to any person for that purpose, shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding [level 2 on the uniform scale] or to both.

(2) In any proceedings under this section, a report by a British Consular officer or a deposition made before a British Consular officer and authenticated under the signature of that officer shall, upon proof that the officer or the deponent cannot be found in the Island, be admissible as evidence of the matters stated therein, and it shall not be necessary to prove the signature or official character of the person who appears to have signed any such report or deposition.

NOTES

In section 36, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In its application to the Island of Alderney, section 36 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Provisional adoption by persons domiciled outside the Island.

37. (1) If the Court is satisfied, upon an application being made by a person who is not domiciled in the Island, that the applicant intends to adopt an infant under the law of or within the country in which he is domiciled, and for that purpose desires to remove the infant from the Island either immediately or after an interval, the Court may, subject to the provisions of this section, make an order (hereafter in this section referred to as "**a provisional adoption order**") authorising the applicant to remove the infant for the purpose aforesaid, and giving to the applicant the custody of the infant pending his adoption as aforesaid.

(2) A provisional adoption order may be made in any case where, apart from the domicile of the applicant, an adoption order could be made in respect of the infant under Part II of this Law, but shall not be made in any other case.

(3) Subject to the provisions of this section, the provisions of this Law, other than this section and sections fifteen and sixteen, shall apply in relation to a provisional adoption order as they apply in relation to an adoption order, and references in those provisions to adoption, to an adoption order, to an application or applicant for such an order and to an adopter or a person adopted or authorised to be adopted under such an order shall be construed accordingly.

(4) In relation to a provisional adoption order section four of this Law shall have effect as if for the word "three", both where it occurs in subsection (1) and where it occurs in subsection (2), there were substituted the word "six".

(5) Any entry in the Register of Births or the Adopted Children Register which is required to be marked in consequence of the making of a provisional adoption order shall, in lieu of being marked with the word "Adopted" or "Re-adopted", be marked with the words "Provisionally adopted" or "Provisionally re-adopted", as the case may require.

Appeals to the Royal Court.

38. An appeal shall lie to the Royal Court from any decision of the Court to make or refuse to make an adoption order and from any order made by the Court under Part V of this Law.

NOTE

In accordance with the provisions of the Court of Appeal (Guernsey) Law, 1961, section 13, with effect from 4th June, 1964, the appellate jurisdiction in civil matters which immediately before that date was vested in the Royal Court, sitting as a "Cour des Jugements et Records" was vested in, and any civil matter pending immediately before that date was transferred to, the Court of Appeal.

Offences by body corporate.

39. Where any offence under Part III, Part IV, Part V or Part VI of this Law committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, member of the committee, secretary or other officer of the body, he, as well as the body, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Service of notices, etc.

40. Any notice required to be given or served and any information required to be given under this Law may be given or served by post.

Provisions as to existing de facto adoptions.

41. Notwithstanding anything in this Law contained, where at the date of the commencement of this Law any infant is in the custody of, and being brought up and maintained by any person or two spouses jointly as his, her or their own child under any de facto adoption, the Court may, upon the application of such person or spouses, and notwithstanding that the applicant is a male and the infant a female, make an adoption order authorising him, her or them to adopt the infant without requiring the consent of any parent or guardian of the infant to be obtained, upon being satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the infant that no such consent should be required and that an adoption order should be made.

NOTES

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.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the reference in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Citation and commencement.

42. (1) This Law may be cited as the Adoption (Guernsey) Law, 1960.

(2) This Law shall come into force on such day as shall be

appointed in that behalf by Ordinance of the States.

NOTES

The Law was brought into force on the 15th March, 1961 by the Adoption (Guernsey) Law, 1960 (Commencement) Ordinance, 1961, section 1.

In its application to the Island of Alderney, section 42 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

SCHEDULE
FORM OF ENTRY IN ADOPTED CHILDREN REGISTER

Section eighteen

No. of entry	Date and country of birth of child	Name and Surname of child	Sex of child	Name and surname, address and occupation of adopter or adopters	Date of adoption order	Date of entry

NOTE

In its application to persons adopted under an overseas adoption, the Schedule is modified in accordance with the provisions of the Adoption (Guernsey) Law, 1970, section 9(2), with effect from 1st June, 1979.

¹ The words "Committee for Health & Social Care" 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.

² 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; the powers and functions of the Children Board, being the Children Board of the States Public Assistance Authority constituted under the provisions of the Public Assistance Law, 1937, were previously transferred to it from the Children Board by the States Children Board and Public Assistance (Amendment) (Guernsey) Law, 1970, section 3, First Schedule, with effect from 16th December, 1970, subject to the transitional provisions in section 4 of the 1970 Law.

³ Subsection (3) was previously amended by the Child Protection (Guernsey) Law, 1972, section 33(1), Schedule, Part I, with effect from 1st May, 1972; and repealed in part by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(4)(a), with effect from 6th March, 2001.

⁴ Section 10 was previously modified in accordance with the provisions of the Children and Young Persons (Guernsey) Law, 1967, section 34, with effect from 29th November, 1967, prior to the repeal of the said section 34 by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 15(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 Prior to its substitution, subsection (3) was amended by the Children and Young Persons (Guernsey) Law, 1967, section 37, Second Schedule, Part I, with effect from 29th November, 1967.