
(Registered on the Records on the 9th July, 1960.)

AT THE COURT AT BUCKINGHAM PALACE

The 7th day of June, 1960.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY.

LORD PRIVY SEAL

LORD CARRINGTON

LORD MILLS

MR. WALKER-SMITH

Adoption
(Guernsey)
Law, 1960.

WHEREAS there was this day read at the Board
a Report from the Right Honourable the Lords of
the Committee of Council for the Affairs of Guernsey

and Jersey, dated the 10th day of May, 1960, in the words following, viz.:—

1960

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

‘1. That, in pursuance of their Resolution of the 31st day of July, 1957, the States of Deliberation at a meeting held on the 11th day of November, 1959, approved a Bill or “Projet de Loi” entitled “The Adoption (Guernsey) Law, 1960” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Adoption (Guernsey) Law, 1960” and to order that the same shall have the force of law in the Islands of Guernsey, Herm and Jethou.’

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

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

1960

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

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

W. G. AGNEW.

(No. IV—
1960)

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

PROJET DE LOI

ENTITLED

THE ADOPTION (GUERNSEY) LAW, 1960.

ARRANGEMENT OF SECTIONS

Section No.

PART I

Interpretation

1. Interpretation.

PART II

Adoption orders

2. Power to make adoption orders.
3. Age and sex of applicant.
4. Care and possession of infants before adoption and notification of Board.
5. Consents.
6. Power to dispense with consent.
7. Evidence of consent of parent or guardian.

*Section No.*1960

8. Functions of the Court as to adoption orders.
9. Interim orders.
10. Rules of procedure.
11. Modification of foregoing provisions in the case of applicants not ordinarily resident in the Island.
12. Rights and duties of parents and capacity to marry.
13. Friendly societies, insurance, etc.
14. Affiliation orders, etc.
15. Intestacies and wills, etc.
16. Provisions supplementary to section fifteen.
17. Adopted Children Register.
18. Registration of adoptions.
19. Amendment of orders and rectification of Register.
20. Legitimation: revocation of adoption orders and cancellations in Registers.

PART III

Arrangements for adoption

21. Power of Board to make arrangements for adoption.
22. Restriction on making of arrangements for adoption.

PART IV

Care and possession of infants awaiting adoption

23. Restriction on removal by parent or guardian after giving consent.
24. Return of infants placed by Board.
25. Further provisions as to adoption of children in care of Board.

PART V

Supervision of children awaiting adoption or placed with strangers

26. Meaning of "protected child".
27. Duty of Board to secure well-being of protected children.
28. Power to inspect premises.
29. Notices and information to be given to Board.
30. Power of Board to prohibit placing of child.
31. Appeal to the Court against prohibition under section thirty.
32. Removal of protected children from unsuitable surroundings.
33. Offences under Part V.

PART VI

Miscellaneous and general

34. Prohibition of certain payments.
35. Restriction upon advertisements.
36. Restriction on removal of infants for adoption outside British Islands.
37. Provisional adoption by persons domiciled outside the Island.
38. Appeals to the Royal Court.
39. Offences by body corporate.
40. Service of notices, etc.
41. Provisions as to existing de facto adoptions.
42. Citation and commencement.

SCHEDULE: FORM OF ENTRY IN ADOPTED
CHILDREN REGISTER

PROJET DE LOI

ENTITLED

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

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:—

Interpreta-
tion.

“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 Board” means the Children Board;

“body of persons” means any body of persons, whether incorporated or unincorporated;

“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 twenty years of age, but does not include a person who is or has been married;

1960

"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;

"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 grand-parent, 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

1960

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.

PART II

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.

Power to
make
adoption
orders.

(2) An adoption order may be made on the application of two spouses 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.

1960

(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 spouse.

(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.

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 two spouses—

- (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.

1960

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.

Care and possession of infants before adoption, and notification of Board.

(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 Board of his intention to apply for an adoption order in respect of the infant.

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

Consents.

- (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 two spouses, except with the consent of the other spouse.

(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 having the like control over an infant as if he were a parent of the

1960

infant by virtue of Article fifteen of the Law of 1917 (which relates to the maintenance of a child or young person when committed to the care of any person under an order of any Court).

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 spouse 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 spouses have separated and are living apart and that the separation is likely to be permanent.

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 con-

1960

sent 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.

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

Functions of
the Court as
to adoption
orders.

1960

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.

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.

1960

(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.

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. Rules of procedure.

(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

1960

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.

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 spouses 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.

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

1960

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 two spouses are the adopters, the spouses 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 father and mother of the infant and the infant shall stand to them in the same relation as to a lawful father and mother.

(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.

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.

Friendly
societies,
insurance,
etc.

(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

1960

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.

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 committed to the care of a fit person by an order in force under the Law of 19⁶⁷, the last mentioned order shall cease to have effect.

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— 1960

- (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.

1960
Provisions
supple-
mentary 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 two spouses 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

1960

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.

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.

Adopted
Children
Register.

(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 afore-said 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

1960

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, shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

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

1960

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.

1960

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.

1960

(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.

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.

Legitima-
tion: revoca-
tion of
adoption
orders and
cancellations
in Registers,

(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.

PART III

Arrangements for adoption

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

Power of
Board to
make
arrange-
ments for
adoption.

1960

(2) The Board 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 Board 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 Board" includes a Committee of the Board.

Restriction
on making
of arrange-
ments for
adoption.

22. (1) It shall not be lawful for any body of persons, other than the Board, 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 Board, 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 one hundred pounds 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.

PART IV

1960

Care and possession of infants awaiting adoption

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.

Restriction on removal by parent or guardian after giving consent.

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 Board 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—

Return of infants placed by Board.

(a) that person may give notice in writing to the Board of his intention not to retain the care and possession of the infant; or

(b) the Board 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 Board by any person, or by the Board 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 Board is refused by the Court or withdrawn, that person shall, within seven days after the date on

1960

which notice was given or the application refused or withdrawn, as the case may be, cause the infant to be returned to the Board, and the Board 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 Board.

(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 one hundred pounds 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 Board.

Further provisions as to adoption of children in care of Board.

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 Board, 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 Board unless the Board so requires.

1960

(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 Board then, until the application for an adoption order has been made and disposed of, any right of the Board 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 Law of 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) of section eleven of the Family Allowances (Guernsey) Law, 1950 (which provides that certain children in the care of the Board 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.

PART V

Supervision of children awaiting adoption or placed with strangers

26. (1) Subject to the following provisions of this section, where—

Meaning of
"protected
child".

- (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

1960

not a parent, guardian or relative of his/ 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, ~~but is not a child in relation to whom the provisions of Part I of the Law of 1917 apply~~, he is a protected child within the meaning of this Part of this Law.

(2) A child is not a protected child ~~by reason of any such arrangements as are mentioned in paragraph (a) of subsection (1) of this section if the child is only temporarily in the care and possession of the person first mentioned in that subsection, nor while the child is in the care of the Board 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;
- (d) by virtue of an order in force under the Law of 1917 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 Board or in the care of any person in any such

school or hospital as is mentioned in the last foregoing subsection.

1960

(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 two spouses 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.

27. It shall be the duty of the Board to secure that protected children are visited from time to time by a person authorised by the Board 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.

Duty of Board to secure well-being of protected children.

28. A person authorised by the Board 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.

Power to inspect premises.

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 Board.

Notices and information to be given to Board.

(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

1960

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 Board.

(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 Board 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 Board 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.

Power of
Board 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 Board or a Committee thereof did not take part in the arrangements and it appears to the Board 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.

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.

1960.

(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.

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 Board 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 Board 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.

Removal of
protected
children
from unsuit-
able sur-
roundings.

(2) The Board 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 Board 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

1960

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 Board shall, if practicable, inform a parent or guardian of the child, or any person who acts as his guardian.

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 one hundred pounds or to both.

PART VI

1960

Miscellaneous and general

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—

Prohibition
of certain
payments.

- (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 one hundred pounds 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 Board 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 Board 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.

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

Restriction
upon
advertisements.

1960

- (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 Board, 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 fifty pounds.

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 one hundred pounds 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.

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

1960

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.

1960

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.

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.

Citation and
commence-
ment.

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.

Section eighteen

FORM OF ENTRY IN ADOPTED CHILDREN REGISTER

1	2	3	4	5	6	7
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

1960

(Registered on the Records on the 23rd July, 1960.)

Exchange
Control
(Authorised
Dealers and
Depositories)
Order, 1960.

The Bailiff having this day placed before the Court an Order of Her Majesty's Treasury dated the 8th day of July, 1960, entitled "The Exchange Control (Authorised Dealers and Depositories) Order, 1960", (S.I. 1960 No. 1151)—the Court, after having heard Her Majesty's Procureur thereon, ordered that the said Order be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively.
