

ORDER IN COUNCIL

XI
2020

ratifying a Projet de Loi

ENTITLED

The Matrimonial Causes (Guernsey) (Amendment) Law, 2019

(Registered on the Records of the Island of Guernsey on the 23rd
April, 2020.)



2020



In the Royal Court of the Island of Guernsey

The

23rd day of April, 2020 before Richard James McMahon, Esquire, Deputy Bailiff, sitting alone.

The Deputy Bailiff, having this day placed before the Court an Order of Her Majesty in Council dated 3rd April 2020, approving and ratifying a Projet de Loi of the States of Guernsey entitled “The Matrimonial Causes (Guernsey) (Amendment) Law, 2019”. THE COURT, after the reading of the said Order in Council, ORDERED

1. That the said Order in Council be registered on the records of this Island;
and
2. That an extract of this present Act, together with a copy of the said Order be sent by Her Majesty’s Greffier to The Greffier of the Court of Alderney and to the Sénéchal of Sark for registration on the records of those Islands respectively.

J. Torode

J TORODE
Her Majesty’s Greffier



At the Court at Windsor Castle

THE 3rd DAY OF APRIL 2020

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

The following report from the Committee of Council for the Affairs of Jersey and Guernsey was today read at the Board:

“In accordance with Your Majesty’s General Order of Reference of 22nd February 1952 the Committee have considered a Petition of the States of Guernsey:

“That, in pursuance of their Resolutions of 30th January 2009 and 26th September 2019, the States of Deliberation at a meeting on 26th September 2019 approved a *Projet de Loi* entitled the Matrimonial Causes (Guernsey) (Amendment) Law, 2019 and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction to it. That the States of the Island of Alderney at a meeting held on 11th December 2019 considered the *Projet de Loi* when a Resolution was passed agreeing to the application to Alderney. That the Chief Pleas of the Island of Sark at a meeting held on 17th December 2019 considered the *Projet de Loi* when a Resolution was passed agreeing to the application to Sark. That the *Projet de Loi* is as set forth in the attached Schedule. The Petition most humbly prays that Your Majesty might be graciously pleased to sanction the Matrimonial Causes (Guernsey) (Amendment) Law, 2019, and to order that it shall have force of law in the Bailiwick of Guernsey.

“The Committee have considered the *Projet de Loi* and have agreed to report that it may be advisable for Your Majesty to approve and ratify it”.

Her Majesty, having taken the report into consideration, was pleased, by and with the advice of Her Privy Council, to approve and ratify the *Projet de Loi* (a copy of which is annexed to this Order) and to order that it, together with this Order, shall have the force of law in the Bailiwick of Guernsey and shall be entered on the Register of the Island of Guernsey and observed accordingly.

Her Majesty’s Officers in the Bailiwick of Guernsey, and all others whom it may concern, are therefore to take notice of Her Majesty’s Order and to proceed accordingly.

Richard J. Wilson

PROJET DE LOI

ENTITLED

The Matrimonial Causes (Guernsey) (Amendment) Law, 2019

THE STATES, in pursuance of their Resolutions of the 30th day of January, 2009^a and the 26th day of September, 2019^b, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Amendment to Law of 1939.

1. The Matrimonial Causes Law (Guernsey), 1939^c ("**the Law**") is amended as follows.

2. In Article 46 of the Law -

(a) for paragraph (1), substitute the following paragraph -

^a Article XI of Billet d'État No. II of 2009.

^b Article XV of Billet d'État No. XVIII of 2019.

^c Ordres en Conseil Vol. XI, p. 318; Vol. XII, p. 278; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489; Vol. XXVII, p. 99; Vol. XXXI, pp. 171 and 278; Vol. XXXII, p. 85; Vol. XXXVI, p. 639; Vol. XXXVII, p. 308; Order in Council Nos. XI and XXXI of 2003; No. XIII of 2011; No. XII of 2015; No. II of 2017; No. I of 2018; Ordinance No. XXXIII of 2003; No. VII of 2010; No. IX of 2016; No. XIII of 2017; Alderney Ordinance No. VIII of 2018.

"(1) Where a decree of divorce or nullity of marriage or a decree or pronouncement of judicial separation has been granted, the Court may, if it thinks fit and subject to Article 57A, as regards any relevant property, make an order of any type described in paragraph (3).", and

(b) immediately after paragraph (2), insert the following paragraphs -

"(3) The orders are -

(a) an order directing that the interests of the parties to the marriage in any relevant property shall vest -

(i) in one party to the marriage,

(ii) in a child of the marriage, or

(iii) in any other person for the benefit of a child of the marriage,

or that such interests shall be vested in one or more of such persons in such proportions as the Court may direct,

(b) an order directing that the interests of the parties to the marriage in any relevant property shall be held on trust for the benefit of such of the parties to, and any children of, the

marriage, and for such purposes, as the Court may direct; and in such a case the Court may order that any such property shall be held on trust for sale with or without the power to postpone the sale -

- (i) for a fixed period,
 - (ii) until the happening of a certain event, or
 - (iii) until further order,
- (c) an order directing that any trust or settlement of any relevant property for the benefit of one party or both parties to the marriage be varied or modified in such manner as the Court may direct,
- (d) an order directing that any relevant property be sold, and that such gross, or periodic, sum of money be paid out of the proceeds of sale of such property to -
- (i) such party to the marriage, or
 - (ii) such child or children of the marriage,
or
 - (iii) such person for the benefit of such child or children of the marriage, or

- (iv) any one or more of the persons included in sub-paragraphs (i) to (iii),

as the Court may direct,

- (e) an order suspending the right of a party to the marriage to demand licitation of any relevant property on such terms, and for such period, as the Court may direct,

- (f) an order creating, extinguishing, or varying a usufruit, droit d'habitation, lease, licence, or right of occupation for the benefit of such of -

- (i) a party to the marriage, and

- (ii) a child or children of the marriage,

and on such terms and conditions, as the Court may direct.

(4) Where the Court makes an order described in paragraph (3), it may order that one party shall -

- (a) pay to the other party to the marriage, for his or her absolute benefit, such gross or periodic sum, or both, or

- (b) secure to the other party for his or her benefit, such gross or periodic sum, or both, for any term not exceeding the life of the party in favour of whom the same is secured,

as the Court may direct.

- (5) An order made under this Article -

- (a) may contain such consequential, ancillary, incidental or supplementary provisions as the Court thinks fit, and
- (b) may be varied or modified from time to time in such manner as the Court thinks fit.

(6) Where a party to a marriage has an interest in any relevant property, or in the proceeds of sale thereof, and some other person who is not a party to the marriage also has an interest in that property, or in the proceeds of sale thereof, then, before deciding whether to make an order under this Article in relation to that property, it shall be the duty of the Court to give that other person an opportunity to make representations with respect to the order, and any such representations shall be included among the circumstances to which the court should have regard.

(7) In this Article "**relevant property**" means real and personal property in which each or either of the parties to the marriage has an interest, present, prospective or conditional."

3. In Article 57C(2) of the Law, in the definition of "**a relevant order**",

immediately after subparagraph (a), insert the following subparagraph -

"(aa) payment of a gross, or periodic, sum of money under Article 46,".

4. In Article 67 of the Law -

(a) number the provision as paragraph (1),

(b) insert the following paragraph after paragraph (1) -

"(2) Without prejudice to the generality of paragraph (1), an Ordinance may make provision prescribing the matters of which the Court shall, or may, take into account when exercising its powers under Article 43 and Part VIII of this Law.".

Interpretation.

5. In this Law, "**the Law**" means the Matrimonial Causes (Guernsey) Law, 1939.

Citation.

6. This Law may be cited as the Matrimonial Causes (Guernsey) (Amendment) Law, 2019.

Commencement.

7. This Law shall come into force on such day as the States may by Ordinance appoint; and different days may be appointed for different provisions and for different purposes.