

# PROJET DE LOI

ENTITLED

## **The Child Protection (Guernsey) Law, 1972 \***

[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. XXIII, p. 238; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Child Protection (Amendment) (Guernsey) Law, 1997 (No. V of 1997, Ordres en Conseil Vol. XXXVII, p. 45); the Children and Young Persons (Amendment) (Guernsey) Law, 2000 (No. III of 2001, Ordres en Conseil Vol. XLI, p. 151); 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 Child Protection (Amendment) (Guernsey) Ordinance, 2010 (No. XLII of 2010); the Child Protection (Amendment) (Guernsey) Ordinance, 2012 (No. XXVII of 2012); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Law is applied, with exceptions, adaptations and modifications, to the Island of Alderney by the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000 (No. I of 2000). See also the Education (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 318); 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*). This Law is prospectively amended by the Children (Child Minders and Day Care Providers) (Guernsey and Alderney) Ordinance, 2015 (No. XXXII of 2015).

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## **The Child Protection (Guernsey) Law, 1972**

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## **The Child Protection (Guernsey) Law, 1972**

**THE STATES**, in pursuance of their Resolution of the thirtieth day of April, nineteen hundred and sixty-nine, 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, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

**"the Bailiff"** includes the Deputy Bailiff, a Lieutenant Bailiff or the Juge Délégué,

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

**"guardian"** means a person appointed by a court of competent jurisdiction to be the guardian of a child,

**"the Island of Guernsey"** means the Islands of Guernsey, Herm and

Jethou,

**"the Law of 1928"** means the Law entitled "Loi ayant rapport à l'Asile des Enfants" registered on the twenty-fourth day of November, nineteen hundred and twenty-eight<sup>a</sup>,

**"officer of police"** means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

**"parent"** –

- (a) in relation to a child adopted in pursuance of an adoption order made under the Adoption (Guernsey) Law, 1960<sup>b</sup>, or an adoption order made in any part of the United Kingdom, the Isle of Man or the Island of Jersey, means the person or persons by whom he was adopted, to the exclusion of his natural parents,
- (b) in relation to a child who is illegitimate, means his mother, to the exclusion of his father,

**"place of safety"** has the meaning assigned to it by 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<sup>c</sup>,

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<sup>a</sup> Ordres en Conseil Vol. VIII, p. 238; Vol. XI, p. 91; Vol. XXI, p. 34; No. I of 1971.

<sup>b</sup> Ordres en Conseil Vol. XVIII, p. 192.

<sup>c</sup> Ordres en Conseil Vol. V, p. 345.

[ **"prescribed"** means prescribed by regulations made by [the Committee],]

**"probation order"** has the meaning assigned to it by Article 2 of the Law entitled "Loi relative à la Probation de Délinquants" registered on the twenty-third day of November, nineteen hundred and twenty-nine<sup>d</sup>,

**"relative"** has the same meaning as in the Adoption (Guernsey) Law, 1960,

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

[ ...]

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

(2) Except where the context otherwise requires, the expression **"child"** –

(a) in Part II [...] of this Law, means a person under the age of eighteen years,

(b) in Part III of this Law, means a person who has not attained the upper limit of the compulsory school age.

(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

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<sup>d</sup> Ordres en Conseil Vol. VIII, p. 363.

enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

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## 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" and, third, the words "the Committee" in square brackets, wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6, section 2, Schedule 1, paragraph 5 and section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;<sup>1</sup>*

*the definition of the expression "prescribed" in subsection (1) was inserted by the Child Protection (Amendment) (Guernsey) Ordinance, 2010, section 2, with effect from 27th October, 2010;*

*the words omitted in the third pair of square brackets in subsection (1) were repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, paragraph 20(a), with effect from 4th January, 2010;*

*the words omitted in square brackets in paragraph (a) of subsection (2) were repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(a), with effect from 6th March, 2001.*

*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.<sup>2</sup>*

*The Law is applied to the Island of Alderney by the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, with effect from 1st April, 2000, subject to the exceptions, adaptations and modifications specified in the Schedule to the 2000 Ordinance.*

*In its application to the Island of Alderney, section 1 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, paragraph 2, paragraph 3 and paragraph 4, with effect from 1st April, 2000.*

*In accordance with the provisions of subsection (5) of section 16 of the*

*Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the references in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.*

*In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 22 (shown, incorrectly, in the printed version of the 2008 Law as paragraph 21), 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 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.*

*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.*

*The Loi relative à la Probation de Délinquants, 1929 has since been repealed by the Probation (Bailiwick of Guernsey) Law, 2018, section 21(1), with effect from 17th October, 2019.*

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## PART II

### *Foster children*

#### **Duty of [the Committee] to ensure well-being of foster children.**

2. It shall be the duty of [the Committee] to satisfy itself as to the well-being of children who are foster children within the meaning of this Part of this Law and, for that purpose, to secure that, so far as appears to [the Committee] to be appropriate, the children are visited from time to time by a person authorised by [the Committee] in that behalf and that such advice is given as to the care and maintenance of the children as appears to be needed.



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**NOTE**

*In section 2, 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.*

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**Meaning of "foster child".**

3. (1) In this Part of this Law **"foster child"** means, subject to the following provisions of this section, a child below the upper limit of the compulsory school age whose care and maintenance are undertaken by a person who is not a relative or guardian of his.

(2) A child is not a foster child within the meaning of this part of this Law while he is in the care of [the Committee] or is boarded out by [the Committee].

(3) A child is not a foster child within the meaning of this Part of this Law while he is in the care of any person –

- (a) in premises in which any parent, adult relative or guardian of his is for the time being residing,
- (b) in any school in which he is receiving full-time education,
- (c) in any hospital for the time being administered by the States, or
- (d) in any home or institution not specified in this section and maintained by the States.

(4) A child is not a foster child within the meaning of this Part of this Law at any time while his care and maintenance are undertaken by a person, other than a relative or guardian of his, if at that time –

- (a) that person does not intend to, and does not in fact, undertake his care and maintenance for a continuous period of more than six days, or
- (b) that person is not a regular foster parent and does not intend to, and does not, in fact, undertake his care and maintenance for a continuous period of more than twenty-seven days,

and for the purposes of this subsection a person is a regular foster parent if, during the period of twelve months immediately preceding the date on which he begins to undertake the care and maintenance of the child in question, he had, otherwise than as a relative or guardian, the care and maintenance of one or more children either for a period of, or periods amounting in the aggregate to, not less than three months or for at least three continuous periods each of which was of more than six days.

(5) A child is not a foster child within the meaning of this Part of this Law while he is in the care of any person in compliance with a supervision order or probation order or by virtue of a fit person order or 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<sup>e</sup>.

(6) A child is not a foster child for the purposes of this Part of this Law while he is placed in the care and possession of a person who proposes to adopt him under arrangements made by [the Committee] or while he is a protected child

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<sup>e</sup> Ordres en Conseil Vol. VIII, p. 13.

within the meaning of Part V of the Adoption (Guernsey) Law, 1960.

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## NOTES

*In section 3, 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.*

*In its application to the Island of Alderney, section 3 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, with effect from 1st April, 2000.*

*In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the reference in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.*

*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 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.*

*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.*

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## **Duty of persons maintaining foster children to notify [the Committee].**

4. (1) Subject to the following provisions of this section, a person who proposes to maintain as a foster child a child not already in his care shall give written notice thereof to [the Committee] not less than two weeks and not more than four weeks before he receives the child, unless he receives him in an emergency; and

a person who maintains a foster child whom he received in an emergency or who became a foster child while in his care shall give written notice thereof to [the Committee] not later than forty-eight hours after he receives the child or, as the case may be, after the child becomes a foster child.

(2) Every such notice shall specify the date on which it is intended that the child should be received or, as the case may be, on which the child was in fact received or became a foster child and the premises in which the child is to be or is being kept.

(3) A person shall not be required to give notice under subsection (1) of this section in relation to a child if –

- (a) he has on a previous occasion given notice under that subsection in respect of that or any other child, specifying the premises at which he proposes to keep the child in question, and
- (b) he has not, at any time since that notice was given, ceased to maintain at least one foster child at those premises and been required by virtue of the following provisions of this section to give notice under subsection (7) of this section in respect of those premises.

(4) Where a person who is maintaining one or more foster children changes his permanent address or the premises in which the child is, or the children are, kept he shall, not less than two weeks and not more than four weeks before the change, or, if the change is made in an emergency, not later than forty-eight hours after the change, give written notice to [the Committee], specifying the new address or premises.

(5) If a foster child dies, the person who was maintaining him shall, within forty-eight hours thereof, give to [the Committee] and to the person from whom the child was received notice in writing of the death.

(6) Where a foster child is removed or removes himself from the care of the person maintaining him, that person shall at the request of [the Committee] give to [the Committee] the name and address, if known, of the person, if any, into whose care the child has been removed.

(7) Subject to the provisions of the following subsection, where a person who has been maintaining one or more foster children at any premises ceases to maintain foster children at those premises and the circumstances are such that no notice is required to be given under subsection (4) or subsection (5) of this section, that person shall, within forty-eight hours after he ceases to maintain any foster children at those premises, give notice in writing thereof to [the Committee].

(8) A person need not give the notice required by the last foregoing subsection in consequence of his ceasing to maintain foster children at any premises if, at the time he so ceases, he intends within twenty-seven days again to maintain any of them as a foster child at those premises; but, if he subsequently abandons that intention or the said period expires without his having given effect to it he shall give the said notice within forty-eight hours of that event.

(9) A person maintaining or proposing to maintain a foster child shall at the request of [the Committee] give to [the Committee] 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 of the child or from whom the child has been or is to be received.

## NOTES

*In section 4, 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.*

*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.*

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### **Power to inspect premises, impose conditions, or prohibit the keeping of foster children.**

5. (1) A person authorised by [the Committee] to visit foster children may at all reasonable times, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, inspect any premises in the whole or any part of which foster children are to be or are being kept.

(2) If it is shown to the satisfaction of the Bailiff by information on oath –

- (a) that there is reasonable cause to believe that a foster child is being kept in any premises, or in any part thereof, and
- (b) that admission to those premises or that part thereof has been refused to a person authorised by [the Committee]

to visit foster children or that such a refusal is apprehended or that the occupier is temporarily absent,

the Bailiff may grant a warrant authorising any person authorised as aforesaid to enter the premises, if need be by force, at any time within forty-eight hours of the issue of the warrant, for the purpose of inspecting the premises.

(3) Where a person is keeping or proposes to keep foster children in premises used, while foster children are kept therein, wholly or partly for that purpose, [the Committee] may impose on him requirements, to be complied with, after such time as [the Committee] may specify, whenever a foster child is kept in the premises, as to –

- (a) the number, age and sex of the foster children who may be kept at any time in the premises or any part thereof,
- (b) the accommodation and equipment to be provided for the children,
- (c) the medical arrangements to be made for protecting the health of the children,
- (d) the giving of particulars of the person for the time being in charge of the children,
- (e) the number, qualifications or experience of the persons employed in looking after the children,
- (f) the keeping of records,
- (g) the fire precautions to be taken in the premises,

- (h) the giving of particulars of any foster child received in the premises and of any change in the number or identity of the foster children kept therein,

but any such requirement may be limited to a particular class of foster children kept in the premises and any requirement imposed under paragraphs (b) to (h) of this subsection may be limited by [the Committee] so as to apply only when the number of foster children kept in the premises exceeds a specified number.

(4) Where a person proposes to keep a foster child in any premises and [the Committee] is of the opinion that –

- (a) the premises are not suitable premises in which to keep foster children, or
- (b) that person is not a suitable person to have the care and maintenance of foster children, or
- (c) it would be detrimental to that child to be kept by that person in those premises,

[the Committee] may impose a prohibition on that person under subsection (5) of this section.

(5) A prohibition imposed on any person under this subsection may –

- (a) prohibit him from keeping any foster child in premises specified in the prohibition, or



- (b) prohibit him from keeping any foster child in any premises in the Island of Guernsey, or
- (c) prohibit him from keeping a particular child specified in the prohibition in premises so specified.

(6) Where [the Committee] has imposed a prohibition on any person under subsection (5) of this section, [the Committee] may, if it thinks fit, cancel the prohibition, either of its own motion or on an application made by that person on the ground of a change in the circumstances in which a foster child would be kept by him.

(7) Where [the Committee] imposes a requirement on any person under subsection (3) of this section as respects any premises, it may prohibit him from keeping foster children in the premises after the time specified for compliance with the requirement unless the requirement is complied with.

(8) Any requirement or prohibition imposed under this section shall be imposed by notice in writing served on the person on whom it is imposed.

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#### NOTES

*In section 5, 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.*

*In its application to the Island of Alderney, section 5 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 2(a) and paragraph 5, with effect from 1st April, 2000.*

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#### **Appeal against requirement or prohibition imposed under section five.**

6. (1) Any person aggrieved by any requirement or prohibition

imposed under the last foregoing section may, within fourteen days from the date on which he is notified of the requirement or prohibition, or, in the case of a prohibition imposed under subsection (5) of that section, within fourteen days from the refusal by [the Committee] to accede to an application by him for the cancellation of the prohibition, appeal to the Royal Court, and where the appeal is against such a requirement the requirement shall not have effect while the appeal is pending.

(2) Where the Royal Court allows such an appeal it may, instead of cancelling the requirement or prohibition, vary the requirement or allow more time for compliance with it or, where an absolute prohibition has been imposed, substitute for it a prohibition to use the premises after such time as the Royal Court may specify unless such specified requirements as [the Committee] had power to impose under the last foregoing section are complied with.

(3) Any notice by which a requirement or prohibition is imposed on any person under the last foregoing section shall contain a statement informing him of his right to appeal against the requirement or prohibition and of the time within which he may do so.

(4) Any requirement or prohibition specified or substituted under this section by the Royal Court shall be deemed for the purposes of this Part of this Law, other than this section, to have been imposed by [the Committee] under the last foregoing section.

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## NOTES

*In section 6, 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.*

*In its application to the Island of Alderney, section 6 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 2(b),*

*with effect from 1st April, 2000.*

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**Disqualification for keeping foster children.**

7. (1) A person shall not maintain a foster child if –
- (a) an order has been made against him under this Part of this Law removing a child from his care,
  - (b) an order has been made under subsection (5) of section fifteen of this Law refusing his registration under Part III of this Law or an order has been made under section nineteen of this Law cancelling his registration under that Part of this Law or the registration under that Part of this Law of any premises occupied by him,
  - (c) an order has been made under the Children and Young Persons (Guernsey) Law, 1967, by virtue of which a child was removed from his care,
  - (d) he has been convicted of any offence specified in the First Schedule to the Children and Young Persons (Guernsey) Law, 1967, in respect of a child or has been placed on probation or discharged absolutely or conditionally for any such offence,
  - (e) ...
  - (f) an order has been made under section thirty-two of the Adoption (Guernsey) Law, 1960, for the removal of a protected child who was being kept or was about to be received by him,

unless he has disclosed that fact to [the Committee] and obtained the consent of [the Committee].

(2) Where this section applies to any person, otherwise than by virtue of this subsection, it shall apply also to any other person who lives in the same premises as he does or who lives in premises at which he is employed.

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## NOTES

*In section 7,*

*paragraph (e) of subsection (1) was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(b), with effect from 6th March, 2001;*

*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.*

*In its application to the Island of Alderney, section 7 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1 and paragraph 6, with effect from 1st April, 2000.*

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## **Removal of foster children kept in unsuitable surroundings.**

8. (1) Subject to the provisions of the next following subsection, the Royal Court may, upon application being made to it in that behalf by [the Committee] and if satisfied that a foster child is being kept or is about to be received by any person who is unfit to have his care, or in contravention of the last foregoing section or of any prohibition imposed by [the Committee] under section five 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 Royal Court on the application of a person authorised to visit foster children.

(2) [ The Committee] shall cause a notice in writing of its intention to make an application to the Royal Court for an order under this section in respect of any foster 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 Royal 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 any person authorised to visit foster children or by any officer of police.

(4) An order under this section made on the ground that a prohibition of [the Committee] under section five of this Law has been contravened may require the removal from the premises of all the foster children kept there.

(5) [ The Committee] may receive into its care any child removed under this section and the provisions of the Law of 1928 shall apply to any such child received into the care of [the Committee] notwithstanding that the child may have attained the upper limit of the compulsory school age and as if the references in those provisions to the Children's Home (gallicized "Asile pour des Enfants") included references to any other place under the control of [the Committee].

(6) Where a child is removed under this section [the Committee] shall, if practicable, inform a parent or guardian of the child.

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## NOTES

*In section 8, 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.

*In its application to the Island of Alderney, section 8 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1 and paragraph 2(b), with effect from 1st April, 2000.*

*In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the reference in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.*

*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 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.*

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### **Avoidance of insurances on lives of foster children maintained for reward.**

9. (1) A person who is maintaining a foster child for reward 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 foster child for reward, or to any person on behalf of a person who is maintaining a foster child for reward, 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 a fine not exceeding [level 2 on the uniform scale] or to

imprisonment for a term not exceeding six months or to both.

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**NOTES**

*In section 9, the words and figure in square brackets in subsection (3) 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 9 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, with effect from 1st April, 2000.*

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**Extension of Part II to certain school children during holidays.**

**10.** (1) Where a child below the upper limit of the compulsory school age resides during school holidays in a school to which this section applies, then, if he so resides for a period exceeding two weeks, the provisions of this Part of this Law shall apply in relation to him as if paragraph (b) of subsection (3) of section three of this Law were omitted, but subject to the modifications specified in the next following subsection.

(2) Where this Part of this Law applies to a child by virtue of subsection (1) of this section –

- (a) subsections (1) to (8) of section four, subsections (3) to (8) of section five and section eleven of this Law shall not apply, but
- (b) the person undertaking the care and maintenance of children in the school during the school holidays shall, not less than two weeks before this Part of this Law first applies to a child in that school during those holidays, give written notice to [the Committee] that

children to whom this Part of this Law applies will reside in the school during those holidays, and any such notice shall state the estimated number of the children.

(3) [ The Committee] may exempt any person from the duty of giving notices under this section, and any such exemption may be granted for a specified period or indefinitely and may be revoked at any time by notice in writing served on that person.

(4) This section applies to any school which is an independent school within the meaning of the Education (Guernsey) Law, 1970<sup>f</sup>.

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#### NOTES

*In section 10, 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.*

*In its application to the Island of Alderney, section 10 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, with effect from 1st April, 2000.*

*In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the reference in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.*

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#### **Extension of Part II to certain children above compulsory school age.**

**11.** Where a child is a foster child on attaining the upper limit of the compulsory school age, this Part of this Law shall apply in relation to him as it applies in relation to a foster child, until the earliest of the following events, that is to say, until –

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<sup>f</sup> Ordres en Conseil, No. II of 1970.



- (a) he would, apart from that limit, have ceased to be a foster child,
- (b) he reaches the age of eighteen, or
- (c) he lives elsewhere than with the person with whom he was living when he attained the said limit.

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**NOTE**

*In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the references in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.*

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**Offences.**

- 12.** (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 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 any foster child by a person authorised by [the Committee] to visit foster children or the inspection, under the power conferred by subsection (1) of section five of this Law, of any premises or wilfully obstructs a person entitled to enter

any premises by virtue of a warrant under subsection (2) of that section,

- (c) he fails to comply with any requirement imposed by [the Committee] under this Part of this Law or keeps any foster child in any premises in contravention of a prohibition so imposed,
- (d) he maintains a foster child in contravention of section seven of this Law, or
- (e) 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) Where section seven of this Law applies to any person by virtue only of subsection (2) of that section, he shall not be guilty of an offence under paragraph (d) of the last foregoing subsection if he proves that he did not know, and had no reasonable grounds for believing, that a person living or employed in the premises in which he lives was a person to whom that section applies.

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**NOTE**

*In section 12, 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.*

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**Penalties.**

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

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## NOTES

*In section 13, 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 13 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, with effect from 1st April, 2000.*

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### **Prohibition of anonymous advertisements offering to undertake care of children.**

14. (1) No advertisement indicating that a person will undertake, or will arrange for, the care and maintenance of a child shall be published, unless it truly states that person's name and address.

(2) A person who causes to be published or knowingly publishes an advertisement in contravention of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding six months or to both.

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## NOTES

*In section 14, 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 its application to the Island of Alderney, section 14 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, with effect from 1st April, 2000.*

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PART III

*Regulation of nurseries and child-minders*

**Registration by [the Committee] of nurseries and child-minders.**

15. (1) [ The Committee] shall keep a register –

- (a) of premises, other than premises wholly or mainly used as private dwellings, where children [under the age of five years] are received to be looked after for the day or for a part or parts thereof of a duration, or an aggregate duration, of two hours or longer or for any longer period not exceeding six days,
- (b) of persons who for reward receive into their homes children under the age of five [years] to be looked after as aforesaid.

(2) The register kept under subsection (1) of this section shall be open to inspection at all reasonable times.

(3) Any person receiving or proposing to receive children as mentioned in paragraph (a) or (b) of subsection (1) of this section may make application to [the Committee] for registration thereunder, and on receipt of such an application [the Committee] shall, subject to the provisions of this section, register the premises to which or the person to whom the application relates.

[ (3A) [ The Committee] need not consider an application for registration under subsection (3) unless it is accompanied by such fee as may be prescribed under subsection (1) of section 16A.]

(4) [ The Committee] may by order refuse to register any premises if it is satisfied that any person employed or proposed to be employed in looking after children at the premises is not a fit person to look after children, or, where the premises were not at the commencement of this Law in use for the reception of children as mentioned in paragraph (a) of subsection one of this section, if [the Committee] is satisfied that the premises are not fit to be used for that purpose whether because of the condition thereof or of the equipment thereof or for any reason connected with the situation, construction or size thereof or with other persons therein.

(5) [ The Committee] may by order refuse to register any person if they are satisfied that that person, or any person employed or proposed to be employed by him in looking after children, is not a fit person to look after children or that the premises in which the children are received or proposed to be received are not fit to be used for the purpose whether because of the condition thereof or of the equipment thereof or for any reason connected with the situation, construction or size thereof or with other persons therein.

(6) An application for the registration under this section of any premises shall be of no effect unless it contains a statement with respect to each person employed or proposed to be employed in looking after children at the premises, and each person who has attained the age of sixteen years and though not so employed or proposed to be so employed, is normally resident at the premises, whether or not –

[ (a) there has been made against him an order under –

(i) Part II of this Law removing a child from his care,

(ii) section 15(5) refusing his registration under Part

III of this Law,

- (iii) section 19 cancelling his registration under Part III of this Law or the registration under that Part of any premises occupied by him,
  - (iv) the Children and Young Persons (Guernsey) Law, 1967, by virtue of which a child was removed from his care, or
  - (v) the Children (Guernsey and Alderney) Law, 2008,]
- [(b) he has been convicted of an offence specified in the First Schedule to the Children and Young Persons (Guernsey) Law, 1967, in respect of a child or has been placed on probation or discharged conditionally for any such offence,]
- (c) ...
- (d) an order has been made under section thirty-two of the Adoption (Guernsey) Law, 1960, for the removal of a child from his care,

and an application for the registration under this section of a person shall be of no effect unless it contains a similar statement with respect to him, each person employed or proposed to be employed by him in looking after children and each person other than himself who has attained the age of sixteen years and, though not so employed or proposed to be so employed, is normally resident at the premises in which the children are received or proposed to be received.

(7) A person who, in any such application as aforesaid, makes, with respect to himself or another, any such statement as aforesaid which is false and is known to him to be false or recklessly makes, with respect to himself or another, such a statement which is false shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding six months or to both.

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## NOTES

*In section 15,*

*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 words in square brackets in, first, paragraph (a) and, second, paragraph (b) of subsection (1) were inserted by the Child Protection (Amendment) (Guernsey) Ordinance, 2012, respectively section 1(a) and section 1(b), with effect from 27th June, 2012;*

*subsection (3A) was inserted by the Child Protection (Amendment) (Guernsey) Ordinance, 2010, section 3, with effect from 27th October, 2010;*

*paragraph (a) and paragraph (b) of subsection (6) were substituted by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 3, Schedule 1, Part I, respectively paragraph 20(b)(i) and paragraph 20(b)(ii), with effect from 4th January, 2010, subject to the savings and transitional provisions in section 4 of, and Schedule 2 to, the 2009 Ordinance;*

*paragraph (c) of subsection (6) was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(c), with effect from 6th March, 2001;*

*the words and figure in square brackets in subsection (7) 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 15 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1 and paragraph 6, with effect from 1st April, 2000.*

**Power to impose requirements in connection with registration.**

16. (1) [ The Committee] may by order require that no greater number of children shall be received in premises registered under the last foregoing section than may be specified in the order.

(2) [ The Committee] may by order require, in the case of a person registered under the last foregoing section, that the number of children received in his home as mentioned in paragraph (b) of subsection (1) of that section shall not at any time exceed such number as may be specified in the order; and in making an order under this subsection [the Committee] shall have regard to the number of any other children who may from time to time be in the home.

(3) [ The Committee] may by order made as respects any premises or person registered under the last foregoing section require the taking of precautions against the exposure of the children received in the premises to infectious diseases.

(4) [ The Committee] may by order made as respects any premises registered under the last foregoing section impose requirements for securing –

- (a) that a person with such qualifications as may be specified by [the Committee] shall be in charge of the premises and of the persons employed thereat,
- (b) that the premises shall be adequately staffed, both as respects the number and as respects the qualifications or experience of the persons employed thereat, and adequately equipped,
- (c) in the case of premises which at the commencement of



this Law were in use for the reception of children as mentioned in paragraph (a) of subsection (1) of the last foregoing section, that such repairs shall be carried out on the premises or such alterations thereof or additions thereto shall be made, as may be specified in the order,

- (d) that the premises shall be kept safe and adequately maintained and the equipment thereof shall be adequately maintained,
- (e) that there shall be adequate arrangements for feeding the children received in the premises and that an adequate and suitable diet shall be provided for them,
- (f) that the children received in the premises shall be under medical supervision,
- (g) that records shall be kept in relation to the children received at the premises containing such particulars as may be specified by [the Committee].

(5) An order under paragraph (c) of the last foregoing subsection may be made either on registration or at any time within one month thereafter, and any other order under this section may be made either on registration or at any subsequent time.

(6) [The Committee] may by order made as respects any person registered under the last foregoing section impose requirements for securing –

- (a) that there shall be available, for looking after the children received by him as mentioned in paragraph (b)

of subsection (1) of that section, persons adequate in number and in qualifications or experience,

- (b) that the premises in which the children are received shall be kept safe and adequately maintained and the equipment thereof shall be adequately maintained,
- (c) that there shall be adequate arrangements for feeding the children so received and that an adequate and suitable diet shall be provided for them,
- (d) that records shall be kept in relation to the children so received containing such particulars as may be specified by [the Committee].

(7) An order under this section may be varied or revoked by a subsequent order of [the Committee].

(8) In the case of premises which at the commencement of this Law were in use for the reception of children as mentioned in paragraph (a) of subsection (1) of the last foregoing section, no requirement shall be imposed under paragraphs (a) to (c) of subsection (4) of this section so as to require anything to be done before the expiration of a reasonable time from the commencement of this Law.

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## NOTES

*In section 16, 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.*

*In its application to the Island of Alderney, section 16 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 7, with*

effect from 1st April, 2000.

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**[Power to prescribe registration fees.]**

**16A.** (1) [ The Committee] may by regulation prescribe fees payable to [the Committee] –

- (a) upon application for registration under section 15,
- (b) upon such anniversary of any registration under section 15, or other event, as may be prescribed, and
- (c) in connection with such other matter under this Law, as may be prescribed.

(2) Regulations under subsection (1) may prescribe the persons by whom a fee is payable.

(3) A fee prescribed under subsection (1) is recoverable from the person by whom it is payable as a civil debt due to the States.]

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**NOTES**

*Section 16A was inserted by the Child Protection (Amendment) (Guernsey) Ordinance, 2010, section 4, with effect from 27th October, 2010.*

*In section 16A, 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 16A:*

*Child Protection (Registration Fees) (Guernsey and Alderney) Ordinance, 2011.*

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**Regulations under section 16A.**

**16B.** (1) Regulations under section 16A –

- (a) may be amended or repealed by subsequent regulations thereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to [the Committee] to be necessary or expedient, and
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that 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.

(2) The power conferred under section 16A 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 conditions specified in the regulations.]

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## NOTES

*Section 16B was inserted by the Child Protection (Amendment) (Guernsey) Ordinance, 2010, section 4, with effect from 27th October, 2010.*

*In section 16B, 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.*

*The following Regulations have been made under section 16B:*

*Child Protection (Registration Fees) (Guernsey and Alderney) Ordinance, 2011.*

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## **Certificates of registration.**

17. (1) [The Committee] shall issue certificates of registration under section fifteen of this Law, and any such certificate shall specify the situation of the premises to which, or the name and address of the person to whom, the registration relates and any requirement imposed under the last foregoing section.

(2) On any change occurring in the circumstances particulars of which are stated in a certificate issued under this section, [the Committee] shall issue an amended certificate.

(3) Where [the Committee] is satisfied that any certificate under this section has been lost or destroyed, [the Committee] shall, on payment of such fee

not exceeding fifty new pence as it may determine, issue a copy of the certificate.

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**NOTE**

*In section 17, 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.*

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**Penalties.**

**18.** (1) If at any time after the expiration of three months from the commencement of this Law a child is received in any premises as mentioned in paragraph (a) of subsection (1) of section fifteen of this Law and the premises are not registered under that section or any requirement imposed under section sixteen of this Law is contravened or not complied with, the occupier of the premises shall be guilty of an offence.

(2) Where at any such time as aforesaid a person receives as mentioned in paragraph (b) of subsection (1) of section fifteen of this Law a child of whom he is not a relative, then if he is not registered under section fifteen of this Law, or if he contravenes or fails to comply with any requirement imposed under section sixteen of this Law, he shall be guilty of an offence.

(3) Where a person has been registered under section fifteen of this Law and while he is so registered he acquires a new home, then until he has given notice thereof to [the Committee] he shall not, for the purposes of the last foregoing subsection, be treated as being registered in relation to the reception of children in the new home.

(4) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding [level 1 on the uniform scale] or, in the case of a second or subsequent offence, to a fine not exceeding [level 2 on the

uniform scale] or to imprisonment for a term not exceeding one month or to both.

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**NOTES**

*In section 18,*

*the words in square brackets in subsection (3) 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 figures in square brackets in subsection (4) 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 18 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1 and paragraph 7, with effect from 1st April, 2000.*

---

**Cancellation of registration.**

**19.** (1) Subject to the provisions of subsection (2) of this section, where –

- (a) there has been a contravention of, or non-compliance with, any requirement imposed under section sixteen of this Law in relation to any premises or person registered under section fifteen of this Law, or
- (b) it appears to [the Committee] as respects any premises or person registered under the said section fifteen, that circumstances exist which justify a refusal under subsection (4) or subsection (5) of that section to register the premises or person, [or
- (c) it appears to [the Committee] that such fee as may be prescribed under subsection (1) of section 16A in

respect of a registration under this Law has not been paid when due,]

[the Committee] may by order cancel the registration.

(2) Where a requirement to carry out repairs or make alterations or additions has been imposed under paragraph (c) of subsection (4) of section sixteen of this Law, the registration of the premises shall not be cancelled by virtue of paragraph (b) of subsection (1) of this section on the grounds that the premises are not fit to be used for the reception of children if –

- (a) the time limited by subsection (8) of the said section sixteen for complying with the requirements has not expired, and
- (b) it is shown that the condition of the premises is due to the repairs not having been carried out or the alterations or additions not having been made.

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## NOTES

*In section 19,*

*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;*

*paragraph (c) of subsection (1), and the word immediately after paragraph (b) thereof, were inserted by the Child Protection (Amendment) (Guernsey) Ordinance, 2010, section 5, with effect from 27th October, 2010.*

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## Appeals.

20. (1) Not less than fourteen days before making an order under this



Law refusing an application for registration, cancelling any registration, or imposing any requirement under section sixteen of this Law, [the Committee] shall serve on the applicant, on the occupier of the premises to which the registration relates, or on the person registered, as the case may be, notice of its intention to make such an order.

(2) Every such notice shall state the grounds on which [the Committee] intends to make the order and shall contain an intimation that if within fourteen days after the receipt of the notice the said applicant, occupier or person informs [the Committee] in writing of his desire to show cause, in person or by a representative, why the order should not be made, [the Committee] shall before making the order afford him an opportunity so to do.

(3) If [the Committee] after giving the said applicant, occupier or person such an opportunity as aforesaid, decides to refuse the application, cancel the registration, or impose the requirement, as the case may be, it shall make an order to that effect and shall serve a copy of the order on him.

(4) A person aggrieved by an order under this Part of this Law refusing an application for registration or cancelling any registration, or imposing any requirement under section sixteen of this Law, may appeal to the Royal Court; and an order cancelling any registration shall not take effect until the expiration of the time within which an appeal may be brought under this section or, where such appeal is brought, before the determination of the appeal.

(5) An appeal under this section shall be brought within twenty-one days from the date on which a copy of the order to which the appeal relates was served on the person desiring to appeal.

(6) The copy of any order under this Part of this Law which shall be served on any person in accordance with the provisions of this section shall contain a statement informing him of his right to appeal to the Royal Court and the

time within which he may do so.

(7) Where the Royal Court allows an appeal under this section, it may vary or reverse the decision of [the Committee] to which the appeal relates and [the Committee] shall give effect to the order of the Royal Court varying or reversing such decision and, in particular, shall issue any necessary certificate under section seventeen of this Law and make any necessary entry in the register under section fifteen of this Law.

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#### NOTES

*In section 20, 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.*

*In its application to the Island of Alderney, section 20 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 2(b), with effect from 1st April, 2000.*

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#### **Inspection.**

**21.** (1) Any person authorised in that behalf by [the Committee] may at all reasonable times, after producing, if asked to do so, some duly authenticated document showing that he is so authorised –

- (a) enter any premises which are used for the reception of children as mentioned in paragraph (a) of subsection (1) of section fifteen of this Law, and may inspect the premises and the children so received therein, the arrangements for their welfare, and any records relating to them kept in pursuance of this Part of this Law, or
- (b) enter the home of a person registered under the said

section fifteen and may inspect it and any children received there as mentioned in paragraph (b) of subsection (1) of that section, the arrangements for their welfare and any records relating to them kept in pursuance of this Part of this Law.

(2) If it is shown to the satisfaction of the Bailiff by information on oath –

- (a) that there is reasonable cause to believe that children are being received in a person's home or in any other premises in contravention of any of the provisions of this Part of this Law, and
- (b) that admission to that home or those premises has been refused to a person authorised as aforesaid or that such refusal is apprehended or that the occupier is temporarily absent,

the Bailiff may grant a warrant authorising any person authorised as aforesaid to enter that home or those premises, as the case may be, if need be by force, at any time within forty-eight hours of the issue of the warrant, for the purpose of inspecting that home or those premises.

(3) Any person who obstructs the exercise of any such power as aforesaid shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding six months or to both.

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**NOTES**

*In section 21,*

*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 (3) 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 21 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1 and paragraph 2(a), with effect from 1st April, 2000.*

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**Exemption of certain institutions from provisions of Part III.**

22. (1) Nothing in this Part of this Law shall apply –
- (a) to the reception of children in any hospital, home or institution as are mentioned in subsection (3) of section three of this Law,
  - (b) to the reception of children in any school, being an institution of which the sole or main purpose is the provision of education for children of compulsory school age, notwithstanding that they are received to be looked after and not for the purpose of education,
  - (c) to the reception of children in any nursery school, that is to say, any school which is used mainly for the purpose of providing education for children who have not attained the age of five years and which is maintained or assisted by the States.

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**NOTE**

*In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the reference in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.*

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**Exclusion of section eighteen and section twenty-one where Part II applies.**

23. (1) Where premises falling within paragraph (a) of subsection (1) of section fifteen of this Law are used mainly for the reception of children for periods exceeding six days and in such circumstances that the provisions of Part II of this Law apply, section eighteen and section twenty-one of this Law shall not apply to the premises and the provisions of that Part of this Law as to entry and inspection shall extend to all children received in the premises.

(2) Where a person receives children into his home in such circumstances that apart from this subsection he would be required by subsection (2) of section eighteen of this Law to be registered under section fifteen of this Law, then so far as provision for entry and inspection as respects any child received into his home is made by or under the provisions of Part II of this Law or by or under any enactment relating to the boarding-out of children by [the Committee] –

- (a) section eighteen and section twenty-one of this Law shall not apply,
- (b) the said provision for entry and inspection shall apply in relation to all the children aforesaid.

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**NOTE**

*In section 23, 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.*

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**Exclusion of Part II where premises are registered under Part III.**

24. Where premises registered under section fifteen of this Law are used wholly or mainly for the reception of children as mentioned in paragraph (a) of subsection (1) of that section, the provisions of Part II of this Law as to entry and inspection shall not apply in relation to any children received at the premises, and the provisions of section twenty-one of this Law shall apply in relation to all children received thereat.

PART IV

*Assumption by the Board of parental rights*

**Assumption by the Board of parental rights.**

25. ...

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**NOTE**

*Part IV, and section 25 thereof, were repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(d), with effect from 6th March, 2001.*

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**Effect of assumption by the Board of parental rights.**

26. ...

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**NOTE**

*Section 26 was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(d), with effect from 6th March, 2001.*

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**Duration and rescission of resolutions under section twenty-five.**

27. ...

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**NOTE**

*Section 27 was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(d), with effect from 6th March, 2001.*

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**Application of foregoing provisions of Part IV to children already subject, or becoming subject, to orders of any court.**

28. ...

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**NOTE**

*Section 28 was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(d), with effect from 6th March, 2001.*

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**Meaning of "parents or guardians" in Part IV.**

29. ...

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**NOTE**

*Section 29 was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(d), with effect from 6th March, 2001.*

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**Duty of parents of children in care of the Board to maintain contact with the Board.**

30. ...

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**NOTE**

*Section 30 was repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(d), with effect from 6th March, 2001.*

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**PART V**

Miscellaneous

**Contributions in respect of children in care of [the Committee].**

31. (1) Subject to the provisions of this section, section twenty-eight and section thirty of the Children and Young Persons (Guernsey) Law, 1967, shall apply to children in the care of [the Committee], otherwise than in pursuance of any order made under that Law, as they apply to children committed to the care of [the Committee] as a fit person.

(2) Subject to the provisions of this section and to the provisions of the said Law of 1967 as to appeals, a contribution order made under section twenty-eight of the said Law of 1967 in respect of a child in the care of [the Committee], otherwise than in pursuance of an order made under the said Law of 1967, shall remain in force so long as he remains in the care of [the Committee] as aforesaid.

(3) In the application of section thirty of the said Law of 1967 to children in the care of [the Committee] as mentioned in the last foregoing subsection, subsection (4) of that section shall have effect as if for paragraph (a) and paragraph (b) thereof there were substituted –

"after the child has ceased to be in the care of the Children Board".

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**NOTES**

*In section 31, 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.*

*In its application to the Island of Alderney, section 31 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 1, with effect from 1st April, 2000.*



*Section 30 of the Children and Young Persons (Guernsey) Law, 1967 has since been repealed 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.*

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**Service of notices, etc.**

**32.** Any notice required to be served or given and any information required to be given under this Law shall be validly served or given –

- (a) on or to [the Committee], if delivered by hand to the office of [the Committee] or sent by registered post or by recorded delivery service to the office of [the Committee],
- (b) on or to any person, if delivered to him, left, or sent by registered post or by recorded delivery service to him at his usual or last known place of abode.

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**NOTE**

*In section 32, 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.*

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**Amendments and repeals.**

**33.** (1) The Laws described in the first column of Part I of the Schedule to this Law shall have effect subject to the amendments set out in the second column of that Schedule.

(2) The Laws described in the first column of Part II of the Schedule to this Law are hereby repealed to the extent specified in that Schedule.

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**NOTE**

*In its application to the Island of Alderney, section 33 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 8, with effect from 1st April, 2000.*

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**Citation, commencement and extent.**

34. (1) This Law may be cited as the Child Protection (Guernsey) Law, 1972.

(2) This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States.

(3) This Law shall have effect in the Islands of Guernsey, Herm and Jethou.

[ (4) The States may by Ordinance extend any of the provisions of this Law, subject to such exceptions and modifications as may be specified in the Ordinance, to the Island of Alderney.

(5) Any Ordinance made under subsection (4) may –

- (a) appoint different days as respects the coming into force of different provisions of this Law,
- (b) be amended or repealed by a subsequent Ordinance thereunder,
- (c) contain such consequential, incidental, supplemental and transitional provision as may appear to the States to

be necessary or expedient.]

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**NOTES**

*In section 34, subsection (4) and subsection (5) were inserted by the Child Protection (Amendment) (Guernsey) Law, 1997, section 1, with effect from 4th March, 1997.*

*The Law is applied to the Island of Alderney by the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, with effect from 1st April, 2000, subject to the exceptions, adaptations and modifications specified in the Schedule to the 2000 Ordinance.*

*In its application to the Island of Alderney, section 34 is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 8, with effect from 1st April, 2000.*

*The following Ordinance has been made under section 34:*

*Child Protection (Amendment) (Guernsey) Ordinance, 2010.*

*The Law was brought into force on 1st May, 1972 by the Child Protection (Guernsey) Law, 1972 (Commencement) Ordinance, 1972, section 1.*

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SCHEDULE  
AMENDMENTS AND REPEALS

Section thirty-three

PART I  
Amendments

Law	Amendment
[...]	[...]
The Adoption (Guernsey) Law, 1960.	[...]  [...]  In paragraph (a) of subsection (1) of section twenty-six, immediately after the words "relative of his", there are hereby inserted the words "but who proposes to adopt him".  Immediately after section thirty-two there is hereby inserted the following section –  <b><u>"Avoidance of insurances on lives of protected children."</u></b>  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

<p>The Children and Young Persons (Guernsey) Law, 1967.</p>	<p>or attempts to insure the life of the child he shall be guilty of an offence.</p> <p>(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.</p> <p>(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 one hundred pounds or to both."<sup>3</sup></p> <p>In paragraph (c) of subsection (1) of section twenty-seven, for the words "under Article 2 of the Law of 1917" there are hereby substituted the words "under section eight of the Child Protection (Guernsey) Law, 1972" and for the words "infants improperly kept" there are hereby substituted the words "foster children from unsuitable surroundings".<sup>4</sup></p>
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## PART II

### Repeals

Law	Extent of repeal
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.	Part I.
The Adoption (Guernsey) Law, 1960.	<p>In section twenty-six –</p> <p>(a) in subsection (1), the words "but is not a child in relation to whom the provisions of Part I of the Law of 1917 apply,"</p> <p>(b) in subsection (2) the words from and including the words "by reason" to and including the words "that subsection, nor".</p>
The Children and Young Persons (Guernsey) Law, 1967.	<p>Subsection (7) of section eight.</p> <p>Subsection (8) of section ten.</p> <p>Section twenty-five.</p>

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**NOTES**

*In the Schedule,*

*the words omitted in the first pairs of square brackets in the left and right hand columns were repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(e), with effect from 6th March, 2001;*

*the words omitted in the second and third pairs of square brackets in the right hand column were repealed by the Children and Young Persons (Amendment) (Guernsey) Law, 2000, section 2(1)(f), with effect from 6th March, 2001.*

*In its application to the Island of Alderney, the Schedule is modified in accordance with the provisions of the Alderney (Application of Legislation) (Child Protection) Ordinance, 2000, section 1, Schedule, paragraph 8, with effect from 1st April, 2000.*

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> For subsequent amendments, see the consolidated text of the Adoption (Guernsey) Law, 1960.

<sup>4</sup> For subsequent amendments, see the consolidated text of the Children and Young Persons (Guernsey) Law, 1967.