

# ORDER IN COUNCIL

**I**  
**1971**

ratifying a Projet de Loi

ENTITLED

## **The Children and Young Persons (Amendment) (Guernsey) Law, 1971**

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(Registered on the Records of the Island of Guernsey  
on the 16th day of March, 1971.)

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1971

# ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 16th day of March, 1971, before John Henry Loveridge, Esquire, C.B.E., Deputy Bailiff; present :—Bertram Guy Blampied, Esquire, O.B.E., Claude Fortescue Nason, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Albert Victor Dorey, Esquire, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, William Burton Fox, Esquires, Edward James Lainé, Esquire, C.B.E., D.F.C., Jean Le Pelley and Richard Alan Kinnersly, Esquires, Jurats.*

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 10th day of February, 1971, ratifying a *Projet de Loi* entitled "The Children and Young Persons (Amendment) (Guernsey) Law, 1971", the Court, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

# **At the Court at Buckingham Palace**

The 10th day of February 1971

PRESENT,

## **The Queen's Most Excellent Majesty**

LORD PRESIDENT

LORD DRUMALBYN

MR. PRIOR

MR. PEYTON

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 2nd day of February 1971, in the words following, viz:—

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

‘1. That, in pursuance of their Resolution of the 24th day of June 1970, the States of Deliberation at a meeting held on the 25th day of November 1970 approved a Bill or “Projet de Loi” entitled “The Children and Young Persons (Amendment) (Guernsey) Law, 1971” which Bill is designed to apply to the Bailiwick of Guernsey, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 9th day of December 1970 considered the said Bill or “Projet de Loi” when a Resolution was passed agreeing to the application of the same to

Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the said 9th day of December 1970 considered the said Bill or "Projet de Loi" when a Resolution was passed agreeing to the application of the same to Sark. 4. That the said Bill or "Projet de Loi" is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Children and Young Persons (Amendment) (Guernsey) Law, 1971" and to order that the same shall have force of law in the Bailiwick of Guernsey.'

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

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

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

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

*W. G. Agnew.*

Projet de Loi referred to in the foregoing  
Order in Council

## PROJET DE LOI

ENTITLED

### **The Children and Young Persons (Amendment) (Guernsey) Law, 1971**

THE STATES, in pursuance of their Resolution of the twenty-fourth day of June, nineteen hundred and seventy, 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.

1. (1) The Children and Young Persons (Guernsey) Law, 1967, as amended (a) (hereinafter referred to as "the principal Law"), is hereby further amended as follows, that is to say:—

Amendment  
of Children  
and Young  
Persons  
(Guernsey)  
Law of  
1967.

(a) in the Arrangement of Sections thereto—

- (i) the entry relating to section five is deleted and the words "Power to make special care orders in respect of juvenile offenders or to commit them to fit persons." are substituted therefor;
- (ii) in the heading to PART IV the words "APPROVED SCHOOL ORDERS" are deleted and the words "SPECIAL CARE ORDERS" are substituted therefor;
- (iii) the entry relating to section eleven is deleted and the words "Special care orders." are substituted therefor;

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(a) Ordres en Conseil Vol. XXI, p. 34; No. XII of 1970.

- (iv) the entry relating to section twelve is deleted and the words "Effect of special care order on fit person." are substituted therefor;
- (v) the entry relating to section thirteen is deleted and the words "Escapes from care of local authority, etc." are substituted therefor;
- (vi) in the entry relating to section twenty-eight the words "sent to approved schools, etc." are deleted and the words "made subject to special care orders, etc." are substituted therefor;

(b) in subsection (1) of section one thereof—

- (i) the definitions of the expressions "approved school" and "approved school order" are repealed;
- (ii) immediately after the definition of the expression "the Law of 1928" there is inserted the following definition—  
 " "local authority" means a local authority authorised by the Secretary of State under subsection (2) of section twenty-six of the Children and Young Persons Act 1969 to receive into its care any person named in such authorisation;";
- (iii) immediately after the definition of the expression "probation order" there is inserted the following definition—  
 " "special care order" means an order made by a court committing any person to the care of the

Children Board and requiring the Children Board to transfer that person to the care of a local authority;”;

- (c) section eleven thereof is repealed and the following section is substituted therefor—

“Special  
care  
orders.

11. (1) A court before making a special care order in respect of any child or young person shall endeavour to ascertain his religious persuasion.

(2) Every special care order shall contain a declaration—

(a) as to the age; and

(b) as to the religious persuasion;

of the child or young person in respect of whom it is made.

(3) The Magistrate's Court shall not make a special care order under this Law in respect of a child under the age of ten years unless for any reason, including the want of a fit person of his own religious persuasion who is willing to undertake the care of him, the Magistrate's Court is satisfied that he cannot suitably be dealt with otherwise.

(4) Where a court makes a special care order, the court shall commit the person to



whom it relates to the care of the Children Board and shall require the Children Board to transfer such person to the care of a local authority.

(5) Notwithstanding the provisions of the last preceding subsection, where a court is satisfied at the time of making a special care order in respect of a young person that he is of so unruly or depraved a character that the Children Board is unable to make suitable provision for his care, then the court may commit such young person to custody in a place of safety or to custody in prison until his transfer can be so effected.

(6) Subject to the provisions of the next succeeding subsection, any provision relating to the care or custody of a person subject to a special care order before he is transferred to the care of a local authority and made in pursuance of either of the two last preceding subsections shall cease to have effect at the expiration of twenty-eight days.

(7) The Magistrate's Court may—

(a) upon the application of Her Majesty's Procur-  
eur, from time to time

extend any provision made in pursuance of subsections (4) or (5) of this section for not more than twenty-eight days and any such provision may be so extended in the absence of the person to whom it relates;

- (b) if it appears, upon the application of Her Majesty's Procureur, that a young person made subject to a special care order is of so unruly or depraved a character that the Children Board is unable to make suitable provision for his care, commit such young person to custody in a place of safety or to custody in prison until he can be transferred to the care of a local authority;
- (c) if it appears, upon the application of Her Majesty's Procureur, that by reason of the mental condition or behaviour of a person subject to a special care order it is in the interest of such person or in the

public interest for that person to continue to be in the care of a local authority, order that the special care order shall continue in force until he attains the age of nineteen years; but the court shall not make an order under this subsection unless the person in question is present before the court;

- (d) if it appears, upon the application of Her Majesty's Procureur, that it is appropriate to discharge a special care order, discharge it and, unless the person to whom the order related has attained the age of eighteen years, make a supervision order or a fit person order in respect of him.

(8) Subject to the provisions of this section, a special care order shall cease to have effect—

- (a) if the person to whom it relates had attained the age of sixteen years when the order was originally made, when he attains the age of nineteen years; and

- (b) in any other case, when that person attains the age of eighteen years.

(9) Where a local authority—

- (a) allows a person who is in its care pursuant to a special care order to return to the Bailiwick of Guernsey to be under the charge and control of a parent, guardian, relative or friend for such period as the local authority may determine, then such person shall be deemed for the purposes of this Law to remain in the care of the local authority;
- (b) allows a person who is in its care pursuant to a special care order to return to the Bailiwick of Guernsey under any other circumstances, then such person shall be deemed for the purposes of this Law to be the subject of an order committing him to the care of the Children Board as a fit person.

(10) Where a special care order has been made in respect of a child or young person, any

person who knowingly harbours or conceals him after the time has come for him to be transferred to the care of a local authority shall be liable, on conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(11) Any person who—

- (a) knowingly assists or induces a person to escape from any such custody as is referred to in subsection (5) or paragraph (b) of subsection (7) of this section; or
- (b) without lawful authority takes a person away from such custody; or
- (c) knowingly harbours or conceals a person who has so escaped or has been so taken away or prevents him from returning;

shall be liable, on conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.”;

- (d) paragraph (a) of subsection (1) of section thirteen thereof is repealed and the following paragraph is substituted therefor—

“ (a) cause such steps to be taken as may be necessary to apprehend any person in the case of whom any power of arrest may be exercisable under the provisions of section thirty-two of the Children and Young Persons Act 1969 (which relates to the detention of absentees);”;

- (e) subsection (6) of section twenty-eight thereof is repealed and the following subsection is substituted therefor—

“ (6) A contribution order shall remain in force, in the case of a child or young person committed to the care of a fit person, so long as the order for his committal is in force, and in the case of a child or young person made subject to a special care order, until he ceases to be under the care of a local authority:

Provided that no contributions shall be payable under a contribution order in respect of any period during which a person made subject to a special care order is allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend.”;

- (f) subsection (12) of section twenty-eight thereof is repealed and the following subsection is substituted therefor—

“ (12) The expenses of the conveyance of any person transferred to the care of a local authority in pursuance of a special care

order and of the reconveyance of that person when discharged or when released with the permission of the local authority while still subject to the special care order shall be borne by the States, and the States shall make such contributions towards the expenses of the local authority as shall be agreed from time to time with that local authority.”;

- (g) paragraph (b) of subsection (4) of section thirty thereof is repealed and the following paragraph is substituted therefor—

“ (b) in the case of a child or young person made subject to a special care order, after the discharge of that order or during any period when he is allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend although remaining in the care of the local authority:”.

(2) The provisions of the principal Law, the marginal notes and headings thereto, set out in the first column of the Schedule to this Law are hereby amended as specified in the second column of that Schedule.

Amendment  
of Family  
Allowances  
(Guernsey)  
Law, 1950.

2. Paragraph (d) of section eleven of the Family Allowances (Guernsey) Law, 1950, as amended (b), is hereby repealed and the following paragraph is substituted therefor—

“ (d) in the care of a local authority by virtue of a special care order made under the

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(b) Ordres en Conseil Vol. XIV, p. 332; Vol. XXI, p. 34.

Children and Young Persons (Guernsey) Law, 1967, as amended, and is not allowed by the local authority to be under the charge and control of a parent, guardian, relative or friend;”.

3. The Criminal Justice (Borstal Training) (Guernsey) Law, 1963(c), is hereby amended as follows, that is to say:—

Amendment  
of Criminal  
Justice  
(Borstal  
Training)  
(Guernsey)  
Law, 1963.

(a) in paragraph (a) of subsection (1) of section one thereof the word “fifteen” is repealed and the words “seventeen or, if the Secretary of State by order under the powers conferred upon him by paragraph (d) of subsection (1) of section thirty-four of the Children and Young Persons Act 1969 so provides, sixteen” are substituted therefor;

(b) in subsection (1) of section one thereof immediately after the definition of the expression “the Court” there is inserted the following additional definition—

“(c) the expression “the States” means the States of Guernsey.”;

(c) in subsection (1) of section two thereof the word “fifteen” is repealed and the word “seventeen” is substituted therefor;

(d) immediately after section two thereof there is inserted the following additional section numbered “2A”—

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(c) Ordres en Conseil Vol. XIX, p. 187.



"States  
empowered  
to vary by  
Ordinance  
minimum  
age for  
Borstal  
training.

2A. The States may by Ordinance amend subsection (1) of section two of this Law to reduce to sixteen years the minimum age which qualifies for a sentence of borstal training."

Transitional  
provisions.

4. (1) Any person who at the commencement of this Law has been ordered to be sent to an approved school or is detained in an approved school by virtue of an order of any court or is absent from such a school on temporary leave of absence or on licence or is absent from such a school under supervision or has absconded from such a school shall for the purposes of this Law and of any other enactment be deemed to have been subject on the day of such commencement to a special care order.

(2) Where before the commencement of this Law a child or young person has been ordered to be sent to an approved school and an order was in force immediately before the commencement of this Law requiring any person liable to maintain the child or young person to contribute to his maintenance or requiring the whole or any part of any payment under an affiliation order to be paid to the Treasurer of the States or to any other person, the order shall, for the purposes of this Law and of any other enactment, be deemed to be an order made under the appropriate provisions of the principal Law as amended by this Law.

(3) In this section and in the Third Schedule to the principal Law, the expression "approved school" shall have the meaning assigned to it by subsection (1) of section one of the principal Law before the commencement of this Law.

5. (1) In this Law, unless the context otherwise requires, the expression "the Island of Guernsey" includes the Islands of Herm and Jethou. Interpretation.

(2) Except where the context otherwise requires, any reference in this Law to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948(d), shall apply to the interpretation of this Law throughout the Bailiwick of Guernsey.

6. (1) Subject to the succeeding provisions of this section, the provisions of this Law shall have effect throughout the Bailiwick of Guernsey. Extent.

(2) The provisions of section one of this Law shall have effect in the Island of Alderney insofar only as they relate to the provisions of section thirty of the principal Law and to those provisions of the principal Law which have effect in the Island of Alderney by virtue of the provisions of subsection (4) of section thirty-eight of the principal Law.

(3) The provisions of section one of this Law shall have effect in the Island of Sark insofar only as they relate to those provisions of the principal Law which have effect in the Island of Sark by virtue of the provisions of subsection (5) of section thirty-eight of the principal Law.

(4) The provisions of section two of this Law shall have effect only in the Island of Guernsey and the Island of Alderney.

7. (1) This Law may be cited as the Children and Young Persons (Amendment) (Guernsey) Law, 1971, Citation and commencement.

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(d) Ordres en Conseil Vol. XIII, p. 355.

and this Law and the principal Law may be cited together as the Children and Young Persons (Guernsey) Laws, 1967 and 1971.

(2) This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be so appointed for the coming into force of different provisions of this Law.

## SCHEDULE Subsection (2) of section one.

Principal Law	Amendment
<p>1. Paragraph (a) of subsection (3) of section three. Paragraph (a) of section four. Paragraph (a) of subsection (1) of section five. Paragraph (b) of subsection (3) of section eight. Paragraph (a) of subsection (1) of section ten.</p>	<p>For the words "order him to be sent to an approved school" there shall be substituted the words "make a special care order in respect of him".</p>
<p>2. Marginal note to section five.</p>	<p>For the words "Power to send juvenile offenders to approved schools or to commit them to fit persons." there shall be substituted the words "Power to make special care orders in respect of juvenile offenders or to commit them to fit persons."</p>
<p>3. Heading to Part IV.</p>	<p>For the words "APPROVED SCHOOL ORDERS" there shall be substituted the words "SPECIAL CARE ORDERS".</p>
<p>4. Subsection (2) of section seven. Subsection (3) of section seven.</p>	<p>Immediately after the words "under this Law" there shall be inserted the words and commas ", other than a special care order,".</p>
<p>5. Paragraph (a) of subsection (4) of section seven. Paragraph (a) of subsection (1) of section thirty. Subsection (1) of section thirty-one.</p>	<p>For the words "sent to approved schools" there shall be substituted the words "made subject to special care orders".</p>

Principal Law	Amendment
6. Paragraph (d) of subsection (1) of section ten.	For the words "orders him to be sent to an approved school" there shall be substituted the words "makes a special care order in respect of him".
7. Marginal note to section twelve.	For the words "Effect of approved school order on fit person." there shall be substituted the words "Effect of special care order on fit person".
8. Section twelve.	For the words "an approved school order" there shall be substituted the words "a special care order".
9. Marginal note to section thirteen.	For the words "the managers of an approved school" there shall be substituted the words "a local authority".
9. Marginal note to section thirteen.	For the words "Escapes from approved schools, etc." there shall be substituted the words "Escapes from care of local authority, etc.".
10. Subsection (2) of section twenty.	For the words "an order sending him to an approved school," there shall be substituted the words "a special care order or an order".
	For the words "so ordered to be sent, committed or placed," there shall be substituted the words "subject to such an order".

Principal Law	Amendment
11. Marginal note to section twenty-eight.	For the words "sent to approved schools" there shall be substituted the words "made subject to special care orders".
12. Subsection (1) of section twenty-eight. Subsection (3) of section twenty-eight.	For the words "sending him to an approved school" there shall be substituted the words "a special care order has been made in respect of any person".
13. Subsection (4) of section twenty-eight.	For the words "sending him to an approved school" there shall be substituted the words "the special care order".
14. Paragraph (b) of subsection (5) of section twenty-eight. Paragraph (b) of subsection (7) of section twenty-eight.	For the words "ordered to be sent to an approved school" there shall be substituted the words "made subject to a special care order".
15. Subsection (11) of section twenty-eight. Paragraph (a) of subsection (1) of section twenty-nine. Subsection (2) of section twenty-nine. Paragraph (a) of subsection (1) of section thirty. Subsection (6) of section thirty-one.	For the words "States Supervisor" there shall be substituted the words "Children Board".
16. Paragraph (a) of subsection (1) of section twenty-nine.	For the words "detained in an approved school in pursuance of an order" there shall be substituted the words "in the care of a local authority in pursuance of a special care order".

Principal Law	Amendment
17. Subsection (2) of section twenty-nine.	For the words "detained in an approved school" there shall be substituted the words "in the care of a local authority in pursuance of a special care order".
18. Subsection (1) of section thirty.	For the words "to be sent to an approved school" there shall be substituted the words "is made subject to a special care order".
19. Paragraph (a) of subsection (1) of section thirty-six.	For the words "requiring a child or young person to be sent to an approved school, or" there shall be substituted the words "a special care order, or an order".
20. The entry relating to section eleven in the second column of Part I of the Fourth Schedule. The entry relating to section eleven in the second column of Part II of the Fourth Schedule.	For the words "subsection (7) and subsection (8)" there shall be substituted the words "subsection (10) and subsection (11)".

R. H. VIDELO,

Her Majesty's Greffier.