

ORDER IN COUNCIL

IX
1997

ratifying a Projet de Loi

ENTITLED

The Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997

(Registered on the Records of the Island of Guernsey
on the 29th April, 1997.)



1997

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 29th day of April, 1997 before Sir Graham Dorey, Bailiff; present:—
Stanley Walter John Jehan, Leonard Arthur Moss, Charles Anthony
Spensley, Lawrence Oscar Ozanne, Esquires, Mrs. Eileen May Glass,
Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward
Francis Le Poidevin and Alan Cecil Bisson, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 19th day of March, 1997, approving and ratifying a *Projet de Loi* entitled "The Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997" THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ORDERED that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 19th day of March, 1997

PRESENT,

The Queen's Most Excellent Majesty in Council

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 11th day of February 1997 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 26th day of September 1996, the States of Deliberation at a meeting held on the 27th day of November 1996 approved a Bill or “Projet de Loi” entitled “The Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is as 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 (Secure Accommodation) (Guernsey) Law, 1997” and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou.”:

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

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

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.

N. H. Nicholls

The Children and Young Persons (Secure Accommodation)
(Guernsey) Law, 1997

THE STATES, in pursuance of their Resolution of the 26th day of September, 1996^a, 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.

Use of secure accommodation.

1. (1) Subject to the following provisions of this section, a juvenile who is in the care of the Board may not be placed, and, if placed, may not be kept, in accommodation provided for the purpose of restricting liberty ("secure accommodation") unless it appears-

(a) that-

(i) he has a history of absconding and is likely to abscond from any other description of accommodation; and

(ii) if he absconds, he is likely to suffer significant harm; or

(b) that if he is kept in any other description of accommodation he is likely to injure himself or other persons.

(2) The States may by Ordinance-

^a Article XVIII of Billet d'État No. XXII of 1996.

- (a) specify a maximum period-
 - (i) beyond which a juvenile may not be kept in secure accommodation without the authority of the Court; and
 - (ii) for which the Court may authorise a juvenile to be kept in secure accommodation;
- (b) empower the Court from time to time to authorise a juvenile to be kept in secure accommodation for such further period as the Ordinance may specify; and
- (c) provide that applications to the Court under this section shall be made only by the Board.

(3) It shall be the duty of the Court hearing an application under this section to determine whether any relevant criteria for keeping a juvenile in secure accommodation are satisfied in his case.

(4) If the Court determines that any such criteria are satisfied, it shall make an order authorising the juvenile to be kept in secure accommodation and specifying the maximum period for which he may be so kept.

(5) On any adjournment of the hearing of an application under this section, the Court may make an interim order permitting the juvenile to be kept during the period of the adjournment in secure accommodation.

(6) The States may by Ordinance provide that-

- (a) this section shall or shall not apply to any description of juveniles specified in the Ordinance;
- (b) this section shall have effect in relation to juveniles of a description specified in the Ordinance subject to such modifications as may be so specified;
- (c) such other provisions as may be so specified shall have effect for the purposes of determining whether a juvenile of a description specified in the Ordinance may be placed or kept in secure accommodation.

(7) The giving of an authorisation under this section shall not prejudice any power of any court to give directions relating to the juvenile to whom the authorisation relates.

Review of cases.

2. (1) The States may by Ordinance require the case of each juvenile who is kept in secure accommodation whilst in the care of the Board to be reviewed in accordance with the provisions of the Ordinance.

(2) An Ordinance under subsection (1) may, in particular, make provision-

- (a) as to the manner in which each case is to be reviewed;
- (b) as to the considerations to which the Board are to have regard in reviewing each case;

- (c) as to the time when each case is first to be reviewed and the frequency of subsequent reviews;
- (d) requiring the Board, before conducting any review, to seek the views of-
 - (i) the juvenile;
 - (ii) his parents;
 - (iii) any person who is not a parent of his but who has parental responsibility for him;
 - (iv) any other person who has had care of the juvenile, whose views the Board considers should be taken into account;
- (e) requiring the Board to notify details of the result of the review and of any decision taken by it in consequence of the review to the persons listed in paragraph (d); and
- (f) requiring the Board to monitor the arrangements which it has made with a view to ensuring that it complies with the Ordinance.

General provisions as to Ordinances.

3. (1) An Ordinance under section 1 or 2 may-

- (a) be amended or repealed by a subsequent Ordinance thereunder; and

- (b) contain such consequential, incidental, supplementary and transitional provision as may appear to the States to be necessary or expedient.

(2) Any power conferred upon the States by section 1 or 2 to make an Ordinance may be exercised-

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

Appeals.

4. (1) An appeal against the making of, or refusal to make, an order under section 1 shall lie to the Royal Court.

(2) On an appeal under subsection (1), the Royal Court may make any order necessary to give effect to its determination of the appeal.

(3) Section 14 of the Magistrate's Court (Guernsey) Law, 1954^b applies to an appeal under this section as it applies to an appeal under the said section 14.

Interpretation.

5. (1) In this Law-

"the Board" means the States Children Board;

"the Court" means the Juvenile Court;

"development" means physical, intellectual, emotional, social or behavioural development;

"harm" means ill-treatment or the impairment of health or development;

"health" means physical or mental health;

"juvenile" means a person who is under the age of 17 years;

"ill-treatment" includes sexual abuse and forms of ill-treatment which are not physical.

^b Ordres en Conseil, Vol. XVI, p. 103.

(2) In this Law, where the question of whether harm suffered by a juvenile is significant turns on the juvenile's health or development, his health or development shall be compared with that which could reasonably be expected of a similar juvenile.

Citation.

6. This Law may be cited as the Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997.

Commencement.

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