

ORDER IN COUNCIL

XXIX

1997

ratifying a Projet de Loi

ENTITLED

The Children and Young Persons (Amendment) (Guernsey) Law, 1997

(Registered on the Records of the Island of Guernsey
on the ^{19th January 1998} ~~26th November, 1997.~~)



1997

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 19th day of January, 1998 before Sir Graham Dorey, Bailiff;
present:- Stanley Walter John Jehan, Leonard Arthur Moss, Charles
Anthony Spensley, Lawrence Oscar Ozanne, David Charles Lowe,
Esquires, Mrs. Eileen May Glass, Laurence Lenfestey Guille,
Stephen Edward Francis Le Poidevin, Alan Cecil Bisson and David
Michael Jory, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 26th November, 1997, approving and ratifying a Projet de Loi entitled "The Children and Young Persons (Amendment) (Guernsey) Law, 1997", THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ORDERED:-

1. That the said Order in Council be registered on the records of this Island; and
2. That an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty's Greffier to the Clerk of the Court of Alderney and to the S n schal 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 26th day of November 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 17th day of November 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 27th day of November 1991, the States of Deliberation at a meeting held on the 28th day of May 1997 approved a Bill or “Projet de Loi” entitled “The Children and Young Persons (Amendment) (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 States of the Island of Alderney at a meeting held on the 3rd day of September 1997 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 1st day of October 1997 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 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 (Amendment) (Guernsey) Law, 1997”, 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, and 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.

N. H. Nicholls

The Children and Young Persons (Amendment) (Guernsey) Law, 1997

THE STATES, in pursuance of their Resolution of the 27th day of November, 1991^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 Bailiwick of Guernsey.

Amendments to Law of 1967.

1. The Children and Young Persons (Guernsey) Law, 1967, as amended^b, is further amended as follows-

(a) sections 30(5) and 36(4) are repealed;

(b) for section 38(4) substitute the following subsection-

"(4) The provisions of this Law shall have effect in the Island of Alderney, subject to the exceptions, adaptations and modifications specified in Part I of the Fourth Schedule to this Law.";

(c) for Part I of the Fourth Schedule substitute the Part set out in the Schedule to this Law.

^a Article X of Billet d'État No. XXIV of 1991.
Ordres en Conseil Vol. XXI, p. 37; Vol. XXIII, pp. 3 and 238; Vol. XXIX, p. 124; Vol. XXXI, p. 326; No. XIX of 1991.

Citation.

2. This Law may be cited as the Children and Young Persons (Amendment) (Guernsey) Law, 1997.

Commencement.

3. This Law shall come into operation on such date as the States may by Ordinance appoint, and different dates may be appointed for different provisions and for different purposes.

Section 1

SCHEDULE

"PART I

**EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN APPLICATION
TO THE ISLAND OF ALDERNEY**

1. In sections 10(1) (on the first occasion the words appear), 10(2), 10(4), 10(5) (otherwise than in paragraph (a)), 10(6), 14, 18(1) (otherwise than on the final occasion the words appear), 20(2) (on the first occasion the words appear), 26(1) (otherwise than on the final occasion the words appear), 27 (otherwise than on the second occasion in subsection (1) the words appear) and 36(1), immediately after "the Juvenile Court" insert "or the Court of Alderney, as the case may be,".

2. In sections 1(1) (in the definition of "supervision order"), 10(5)(a), 10(7), 18(1) (on the final occasion the words appear), 20(2) (on the second occasion the words appear), 26(1) (on the final occasion the words appear) and 27(1) (on the second occasion the words appear), immediately after "the Juvenile Court" insert "or the Court of Alderney, as the case may be".

3. In sections 14(6), 18(1) and 27(1)(b), immediately after "the Magistrate" insert "or the Chairman of the Court of Alderney, as the case may be,".

4. In section 3(1), for "the Juvenile Court" substitute "the Court of Alderney".

5. Immediately after section 3(2), insert the following subsections-

"(2A) If the Court of Alderney is satisfied that any person brought before it under this section is a child or young person in need of care, protection or control, the Court of Alderney may make such interim order as it thinks fit for his detention or continued detention in a place of safety.

(2B) An interim order under the last preceding subsection shall not remain in force for more than twenty-eight days but if at the expiration of that period the Court of Alderney deems it expedient so to do, it may make a further interim order under this section, and, where the person concerned is under the age of five years or cannot be brought before the Court of Alderney by reason of illness or accident, may do so in his absence.

(2C) Upon application being made to it by the Children Board, the Court of Alderney shall-

- (a) in addition to making a further interim order under this section, order the case to be transferred to the Juvenile Court to be determined in accordance with the provisions of this Law; or

- (b) make a supervision order in respect of the child or young person; or
- (c) order the parents or guardian of the child or young person to enter into a recognisance, with or without sureties, to exercise proper care and guardianship."

6. In section 3(3), for "under this section" substitute "upon transfer of the case from the Court of Alderney under an order under paragraph (a) of the last preceding subsection".

7. Omit sections 5 and 5A.

8. In section 10(1)(d), immediately after "Juvenile Court" insert-

";and the Court of Alderney may, if it thinks it desirable in his interests so to do-

- (e) order his parent or guardian to enter into a recognisance, with or without sureties, to exercise proper care and guardianship."

9. In section 14(6), immediately after "Her Majesty's Greffier" insert "or the Clerk of the Court of Alderney, as the case may be".

10. Immediately after section 16, insert the following section-

"Proceedings to be held in camera.

16A. (1) A sitting of the Court of Alderney for the purpose of any proceedings under this Law shall not be held in the same room in which

a sitting of another court has been or will be held within one hour before or after, unless it is considered expedient by the Chairman of the Court of Alderney in the interests of justice.

(2) No person shall be present during the hearing of any proceedings under this Law except for-

- (a) members and officers of that court;
- (b) the parties to the proceedings, their parents or guardians, their Advocates, and any witnesses and other persons directly concerned in the proceedings; and
- (c) such other persons as the court may specially authorise to be present."

11. Immediately after section 18(2), insert the following subsections-

"(2A) Where the Magistrate is satisfied that any person in the Island of Alderney is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, in proceedings instituted before the Court of Alderney and thereafter transferred to the Juvenile Court under this Law and that that person will not voluntarily attend as a witness or will not voluntarily produce the document or thing, he shall issue a summons directed to that person requiring him to attend before the Juvenile Court at the time appointed in the summons to give evidence or produce the document or thing.

(2B) On the failure of any person to attend before the Juvenile Court in answer to a summons under the last preceding subsection, if-

- (a) the Magistrate is satisfied by evidence on oath that he is likely to be able to give material evidence or produce any document or thing likely to be material evidence in the proceedings; and
- (b) it is proved on oath, or such other manner as may be prescribed, that he has been duly served with the summons, and that a reasonable sum has been paid or tendered to him for costs and expenses; and
- (c) it appears to the Magistrate that there is no just excuse for the failure,

the Magistrate may issue a warrant to arrest him and bring him before the Juvenile Court at a time specified in the warrant."

12. In section 22, immediately before "the Island of Guernsey" insert "the Island of Alderney or".

13. In section 23(2), immediately before "under this Law" insert "or the Court of Alderney, as the case may be,".

14. Immediately after section 27(5), insert the following subsection-

"(6) Upon application being made to it by the Children Board, the Court of Alderney shall-

- (a) in addition to making a further interim order under this section, order the case to be transferred to the Juvenile Court to be determined in accordance with the provisions of this Law; or
- (b) make a supervision order in respect of the child or young person; or
- (c) order the parents or guardian of the child or young person to enter into a recognisance, with or without sureties, to exercise proper care and guardianship."

15. In section 30-

- (a) for "the Law of 1927" substitute "the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964^c;
- (b) for "the Magistrate's Court" substitute "the Court of Alderney";
- (c) for "the Island of Guernsey" substitute "the Island of Alderney";
- (d) for "Her Majesty's Greffier" substitute "the Clerk of the Court of Alderney"; and
- (e) in subsection (1), delete "or Juvenile Court".

^c Ordres en Conseil Vol. XIX, p. 241; Vol. XXIV, p. 150.

16. Omit section 37(2).
17. Omit section 38(5).
18. In section 38(6), for "the Island of Alderney" substitute "the Island of Guernsey".