

ORDER IN COUNCIL

XI
1979

ratifying a Projet de Loi

ENTITLED

The Law of Inheritance (Guernsey) Law, 1979

(Registered on the Records of the Island of Guernsey
on the 27th November, 1979.)



1979

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 27th day of November, 1979, before Charles Keith Frossard, Esquire, Deputy Bailiff; present:—Stanley Walter Gavey, Esquire, O.B.E., Edward James Lainé, Esquire, C.B.E., D.F.C., Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C., Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Donald Pescott Plummer, Esquire and Sydney Haydn Heard, Esquire, M.B.E., Jurats.

The Deputy Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 19th day of October, 1979, ratifying a *Projet de Loi* entitled "The Law of Inheritance (Guernsey) Law, 1979", 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 October, 1979

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 28th day of September 1979 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 Resolutions of the 27th day of October 1977 and the 30th day of May 1979 the States of Deliberation at a meeting held on the 30th day of May 1979 approved a Bill or “Projet de Loi” entitled “The Law of Inheritance (Guernsey) Law, 1979”, 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 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 Law of Inheritance (Guernsey) Law, 1979”, 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, as 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. E. Leigh

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Law of Inheritance (Guernsey) Law, 1979

THE STATES, in pursuance of their Resolutions of the twenty-seventh day of October, nineteen hundred and seventy-seven, and of the thirtieth day of May, nineteen hundred and seventy-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.

1. (1) Subject to subsection (5) of this section, where a person has by his will of personalty (whether made before or after the commencement of this Law) directed that any step-child or illegitimate child of his shall be treated for the purposes of the Law entitled "Loi relative à la portion disponible des biens-meubles des pères et mères", registered on the twentieth day of January, nineteen hundred and thirty(a) (hereafter in this section referred to as "the Law of 1930") as if that child were a child of his born in lawful wedlock, then, for the purposes of the Law of 1930, that child shall be deemed to be, or to have been, in relation to the succession to the personal estate of that person, a child of that person born in lawful wedlock; and the expressions "enfant", "enfants" and "descendants" in the Law of 1930 shall be construed accordingly.

Rights of
step-
children
and
illegitimate
children in
the succes-
sion to the
personal
estate of
their step-
parent or
natural
parent.

(a) Ordres en Conseil Vol. VIII, p. 390.

(2) Subject to subsection (5) of this section, where a person has by his will of personalty (whether made before or after the commencement of this Law) directed that any illegitimate child (hereafter in this subsection referred to as "the designated child")—

- (a) of a child of his; or
- (b) of a step-child or illegitimate child of his in respect of whom he has made such a direction by his will of personalty as is mentioned in subsection (1) of this section;

shall be treated for the purposes of the Law of 1930 as if the designated child were a descendant born in lawful wedlock of such child, step-child or illegitimate child, as the case may be, then, for the purposes of the Law of 1930, the designated child shall, in relation to the succession to the personal estate of that person, be deemed to be such a descendant of such child, step-child or illegitimate child of his; and the expressions "enfant", "enfants" and "descendants" in the Law of 1930 shall be construed accordingly.

(3) In subsection (1) and subsection (2) of this section—

- (a) "will of personalty" means a will (including codicil) disposing of personal estate or of both real and personal estate;
- (b) "step-child" means, in relation to any person, the child of the spouse or former spouse of that person who is not a child of the marriage of that person and of his spouse or former spouse.

(4) Any reference in the foregoing provisions of this section to the step-child of any person shall be taken to include a person who is illegitimate and

who would have been, had he been born in lawful wedlock, the step-child of such first-mentioned person.

(5) The foregoing provisions of this section shall not apply in the case of the succession to the personal estate of any person who died before the coming into force of this Law.

2. (1) Section four of the Law of Inheritance, 1954^(b), is hereby amended as follows, that is to say—

Amend-
ment of
Law of
Inheritance,
1954.

(a) for the full-stop at the end of the proviso to subsection (1) thereof there is hereby substituted a semi-colon, and immediately after paragraph (d) of that proviso there is hereby inserted the following paragraph—

“(e) the illegitimate children of his descendants, of his illegitimate children or of his step-children.”;

(b) in subsection (2) thereof—

(i) for the words “Where any person, being a descendant, an illegitimate child or a descendant of an illegitimate child of the testator” there are hereby substituted the words “Where any person, being a person to whom this subsection applies and”;

(ii) immediately after the words “before the death of such person” there is hereby inserted a comma;

(c) immediately after subsection (2) thereof there are hereby inserted the following three subsections—

“(3) Subsection (2) of this section applies to the following, that is to say:—

(b) Ordres en Conseil Vol. XVI, p. 10.

- (a) a descendant;
- (b) the illegitimate child of a descendant;
- (c) an illegitimate child;
- (d) a descendant of an illegitimate child;
- (e) an illegitimate child of an illegitimate child;
- (f) a step-child;
- (g) a descendant of a step-child; and
- (h) an illegitimate child of a step-child;

of the testator.

(4) In the foregoing provisions of this section "step-child" means, in relation to any person, the child of the spouse or former spouse of that person who is not a child of the marriage of that person and of his spouse or former spouse.

(5) Any reference in the foregoing provisions of this section to the step-child of any person shall be taken to include a person who is illegitimate and who would have been, had he been born in lawful wedlock, the step-child of such first-mentioned person."

(2) Notwithstanding the amendment of section four of the Law of Inheritance, 1954, in pursuance of the provisions of subsection (1) of this section, the said section four as having effect immediately before the commencement of this Law shall continue to apply as if this Law had not been passed in relation to the real estate of any person who died before the commencement of this Law.

Citation.

3. This Law may be cited as the Law of Inheritance (Guernsey) Law, 1979.

W. J. GAUDION,
Her Majesty's Deputy Greffier