

Orders of the Royal Court.



I
1979

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 24th day of January, 1979, before Charles Keith Frossard, Esquire, Deputy Bailiff; present:— Stanley Walter Gavey, Esquire, O.B.E., D'Arcy George Le Tissier, Walter Francis Robin, Richard Alan Kinnersly, Esquires, Harry Wall Poat, Esquire, D.S.O., M.C., A.D.C., Richard Brook Sutcliffe, Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C. and Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Jurats.

No. 1 Order, 1979

ENTITLED

The Royal Court (Guardianship Proceedings) (Appeals) Rules, 1979

THE ROYAL COURT, in exercise of the powers conferred upon it by subsection (2) of section twenty-two of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, and of all other powers thereunto enabling it, hereby makes the following Rules:—

Notice of
appeal.

1. (1) An appeal under the provisions of subsection (1) of section twenty-two of the Law to the Ordinary Court from an order made by the Court under any of the provisions of Part II of the Law shall be entered by filing at the Greffe prior to the expiration of the seven days next following the date of the order to which the appeal relates a notice of appeal, which shall state the grounds of appeal and whether the whole or part only of the order is complained of, in the form set out in the Schedule to these Rules.

(2) A copy of the notice of appeal shall, prior to the expiration of the period of seven days next following the filing thereof, be served by the appellant on the respondent.

Transcripts.

2. (1) The appellant shall, on making application in that behalf and on payment of the cost thereof, be furnished by Her Majesty's Greffier with one or more copies of the transcript of the record of the proceedings to which the appeal relates (hereinafter referred to as "the transcript") certified as correct by the person responsible for transcribing the record.

(2) The appellant shall, at his own expense, prior to the expiration of the period of seven days next following the receipt by him from Her Majesty's Greffier of one or more copies of the transcript, deliver to the respondent one copy of the transcript.

Fixing of
date of
hearing.

3. Her Majesty's Greffier shall, as soon as may be, following the filing of notice of appeal, furnish to the Bailiff's Secretary, for the use of the Ordinary Court, a certified copy of the Act of Court appealed from and five copies of the transcript and, as soon as may be thereafter, the Bailiff shall fix a date for the hearing of the appeal.

4. When a date has been fixed as aforesaid for the hearing of an appeal Her Majesty's Greffier shall inform the appellant of the date so fixed and notice shall, as soon as may be, be served by the appellant on the respondent and shall in any case be so served prior to the commencement of the period of four days immediately preceding the date so fixed.

Notification
of date of
hearing.

5. (1) The respondent to an appeal may, at any time prior to the commencement of the period of seven days immediately preceding the date fixed for the hearing of the appeal, apply to the Ordinary Court for security for his costs of and incidental to the appeal.

Security
for costs.

(2) If, after taking into account all the circumstances, including the means of the appellant and the respondent, the Ordinary Court considers that the appellant should provide security for all or some of the respondent's costs of and incidental to the appeal, it may order the appellant to pay into Ordinary Court or to give security for such sums as the Ordinary Court deems just and reasonable, and the Ordinary Court may direct a stay of the appeal until such order is complied with.

(3) Notice of any such application as aforesaid shall be served by the respondent on the appellant and no such order as aforesaid shall be made by the Ordinary Court unless the appellant has had an opportunity of being heard thereon.

6. (1) The Ordinary Court may by order confirm, reverse or vary the determination of the Court or make such other order in the matter as it thinks fit.

Powers of
the Ordinary
Court.

(2) Upon the determination of an appeal the costs of and incidental to the proceedings, both on appeal and in first instance, shall, within the scale

for the time being laid down according to law, be in the discretion of the Ordinary Court.

Abandonment of appeal.

7. (1) The appellant may, prior to the commencement of the period of two days immediately preceding the date fixed for the hearing, abandon the appeal by giving notice in writing to Her Majesty's Greffier who shall thereupon give notice of such abandonment to the respondent and to the Bailiff's Secretary.

(2) Where an appeal has been so abandoned, the judgment of the Court shall be enforced subject to anything already suffered or done thereunder by the appellant.

(3) The Ordinary Court may, on the application of the respondent order the appellant to pay to the respondent such costs, within the scale for the time being laid down according to law, as appear to the Ordinary Court to be just and reasonable in respect of costs and expenses properly incurred by the respondent in connection with the appeal before notice of the abandonment was given to him.

(4) The Ordinary Court may order the forfeiture in whole or in part of the security given or found in connection with the appeal or the restoration to the appellant or other person concerned of the security or any part thereof not declared forfeited.

Extension of time.

8. (1) The Ordinary Court may, on such terms as the Ordinary Court thinks just, by order extend or abridge the period within which a person is required or authorised by these Rules or by any order or direction, to do any act and may extend any such period although the application for extension is not made until after the expiration of that period.

(2) The period within which a person is required by these Rules, or by an order or direction, to do any act may be extended or abridged by consent in writing without an order of the Ordinary Court being made for that purpose.

(3) Without prejudice to the power conferred on the Ordinary Court by paragraph (1) of this Rule, the period for filing notice of appeal under Rule one of these Rules may be extended by the Court upon application being made before the expiration of that period.

9. A copy of a transcript required to be delivered under the provisions of paragraph (2) of Rule two of these Rules may be served on any person by delivering it to him, or by sending it by registered post or by recorded delivery service addressed to him at his usual or last known place of abode. Service of transcripts.

10. (1) In these Rules, unless the context otherwise requires:— Interpretation.

“ appeal ” means an appeal to the Ordinary Court under the provisions of subsection (1) of section twenty-two of the Law and “ appellant ” and “ respondent ” shall be construed accordingly;

“ the Court ” means the Magistrate’s Court established and constituted under the provisions of the Magistrate’s Court (Guernsey) Law, 1954;

“ the Law ” means the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978;

“ the Ordinary Court ” means the Royal Court sitting as an Ordinary Court.

(2) The Interpretation (Guernsey) Law, 1948, applies to the interpretation of these Rules as it applies to the interpretation of an enactment.

(3) Any reference in these Rules to any enactment shall be construed as including a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment.

Citation and
commence-
ment.

11. These Rules may be cited as the Royal Court (Guardianship Proceedings) (Appeals) Rules, 1979, and shall come into force on the twenty-fourth day of January, nineteen hundred and seventy-nine.

SCHEDULE Rule one

The Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978.

Notice of Appeal to the Royal Court sitting as an Ordinary Court.

To H.M. Greffier,
Royal Court House,
St. Peter Port,
Guernsey.

I,
of
hereby give notice of appeal against the order made
by the Magistrate's Court on the
..... day of
19, in the case of

*In the said appeal I complain of and appeal against
the whole of the said order.

*In the said appeal I complain of and appeal against
that part of the said order which

The grounds on which I rely in support of my
appeal are set forth in the particulars hereto attached.

Dated this day of
....., 19

Signature

* Strike out whichever is not applicable.

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