

Orders of the Royal Court

II

1985



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 19th day of November, 1985 before Sir Charles Frossard, Kt., Bailiff, present:—Albert Richard McCartney Straw, Donald Pescott Plummer, Brian Ernest Herbert Joy, Esquires, Charles Henry Hodder, Esquire, O.B.E., Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, John Christopher Bulstrode, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires and Mrs. Dorothy Winifred Le Pelley, Jurats.

No. 2 Order, 1985

ENTITLED

The Magistrate's Court (Juvenile Cases) (Procedure) Rules, 1985

THE ROYAL COURT, in pursuance of Article 64 of the Reform (Guernsey) Law, 1948(a), section 12 of the Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950(b), section 25 of the Magistrate's Court (Guernsey) Law, 1954(c), section 35 of the Children and Young Persons (Guernsey) Law, 1967, as amended(d), and of all other powers enabling it in that behalf, hereby orders:—

(a) Ordres en Conseil Vol. XIII, p. 288.

(b) Ordres en Conseil Vol. XIV, p. 388.

(c) Ordres en Conseil Vol. XVI, p. 103.

(d) Ordres en Conseil Vol. XXI, p. 34, Vol. XXIII, p. 3.

Hearing of
juvenile
cases.

1. Proceedings before the Court against children or young persons shall not be heard by the Court at, immediately before or immediately after an ordinary sitting of the Court at which other proceedings against persons not being children or young persons are being heard:

Provided that the provisions of this Rule shall not apply—

- (a) to the prosecution of criminal matters against a child or young persons when that child or young person is charged jointly with another person not being a child or young person, or
- (b) to the prosecution of criminal matters against a child or young person if at the same sitting of the Court another person not being a child or young person is prosecuted as having caused, procured, aided or permitted the criminal matter for which that child or young person is being prosecuted.

Place of
hearings.

2. Subject to the provisions of the last preceding Rule, proceedings before the Court against children or young persons shall be heard, if possible, at the place where the Court normally sits or at such other place and at such time and on such day as the Magistrate may direct.

Assistance
in
conducting
defence.

3. (1) The Court shall, except in any case where the child or young person is legally represented, allow his parent or guardian to assist him in conducting his defence, including the cross-examination of witnesses for the prosecution.

(2) Where the parent or guardian cannot be found, or cannot, in the opinion of the Court,

reasonably be required to attend, the Court may allow any relative or other responsible person to take the place of the parent or guardian for the purposes of these Rules.

4. The Court shall explain to the child or young person the substance of the charge in simple language suitable to his age and understanding.

Duty to explain charge.

5. The Court shall then ask the child or young person whether he admits the charge.

Duty to ask whether charge admitted.

6. (1) If the child or young person does not admit the charge, the Court shall hear the evidence of the witnesses in support of the charge. At the close of the evidence-in-chief of each witness, the witness may be cross-examined by or on behalf of the child or young person.

Evidence in support of charge and cross-examination.

(2) If, in any case where the child or young person is not legally represented or assisted in his defence as provided by Rule 3, the child or young person, instead of asking questions by way of cross-examination, makes assertions, the Court shall then put to the witness such questions as it thinks necessary on behalf of the child or young person and may for this purpose question the child or young person in order to bring out or clear up any point arising out of any such assertions.

7. If it appears to the Court that a prima facie case is made out, the child or young person shall be told that he may give evidence or make a statement, and the evidence of any witness for the defence shall be heard.

Evidence for defence.

8. (1) Where the child or young person is found guilty of an offence, whether after a plea of guilty or otherwise—

Procedure after finding of guilt.

- (a) he and his parent or guardian, if present, shall be given an opportunity of making a statement;
 - (b) the Court shall take into consideration such information as to the general conduct (including information about a caution previously administered by a police officer), home surroundings, school record and medical history of the child or young person as may be necessary to enable it to deal with the case in his best interests;
 - (c) if such information as aforesaid is not fully available, the Court shall consider the desirability of remanding the child or young person for such inquiry as may be necessary;
 - (d) any written report of a probation officer, medical practitioner or from the Children Board may be received and considered by the Court without being read aloud; and
 - (e) if the Court considers it necessary in the interests of the child or young person, it may require him or his parent or guardian, if present, to withdraw from the Court.
- (2) Where, in pursuance of paragraph (1)(d), a report has been considered without being read aloud or where the child or young person, his parent or guardian has been required to withdraw from the court in pursuance of paragraph (1)(e), then—
- (a) the child or young person shall be told the substance of any part of the information given to the Court bearing on his character or conduct which the Court considers to be

material to the manner in which the case should be dealt with unless it appears to it unnecessary so to do having regard to his age and understanding, and

- (b) the parent or guardian of the child or young person, if present, shall be told the substance of any part of such information which the court considers to be material as aforesaid and which has references to his character or conduct or to the character, conduct, home surroundings or health of the child or young person;

and, if such a person, having been told the substance of any part of such information desires to produce further evidence with reference thereto, the Court, if it thinks the further evidence would be material, shall adjourn the proceedings for the production thereof and shall, if necessary in the case of a report, require the attendance at the adjourned hearing of the person who made the report.

9. (1) Before finally disposing of the case, the Court shall inform the child or young person and his parent or guardian, if present, of the manner in which it proposes to deal with the case and allow the child or young person or his parent or guardian, if present, to make representations:

Duty to explain manner of disposing of the case and effect of the Order.

Provided that the child or young person shall not be informed as aforesaid if the Court considers it unnecessary so to do.

(2) On making any Order, the Court shall explain to the child or young person the general nature and effect of the Order unless, in the case of an Order requiring his parent or guardian to enter into a recognisance under the provisions of the

Children and Young Persons (Guernsey) Law, 1967, as amended, it appears to it unnecessary so to do.

Interpretation.

10. (1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

“children” and “young persons” have the meanings respectively assigned to them by the Children and Young Persons (Guernsey) Law, 1967;

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

“Magistrate” means the Magistrate appointed under and in accordance with the provisions of the Magistrate’s Court (Guernsey) Law, 1954;

“police officer” means a member of the salaried police force of Guernsey.

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

(3) In the interpretation of these Rules a reference to any enactment shall be construed as a reference to that enactment as amended, extended or applied by any other enactment.

Repeal.

11. The Magistrate’s Court (Juvenile Cases) (Procedure) Rules, 1956(e) are hereby repealed.

12. (1) These Rules may be cited as the Magistrate's Court (Juvenile Cases) (Procedure) Rules, 1985. Citation and Commencement.

(2) These Rules shall come into force on the nineteenth day of November, 1985.

K. H. TOUGH,

Her Majesty's Greffier.

**Copies may be purchased from
Her Majesty's Greffier, Royal Court House, Guernsey.**

PRICE 35p