

Orders of the Royal Court

II

1989



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 31st day of January 1989 before Sir Charles Frossard, Kt., Bailiff; present: Brian Ernest Herbert Joy, Harry Wilson Bisson, Herbert Nicolle Machon, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Raymond Arthur Heaume, Esquires, Mrs. Dorothy Winifred Le Pelley, John Edward Morris, Charles Anthony Spensley and Kenneth John Rowe, Esquires, Jurats.

No. 2 Order, 1989

ENTITLED

The Curatelle Rules, 1989

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), and of all powers enabling it in that behalf, hereby orders:—

1. Where a person is desirous of being appointed Guardian (“curateur aux biens”) of a person who is unable to manage his affairs for reasons of in-

Applications
for Guardian-
ship.

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

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

firmity of mind or body (hereinafter referred to as "the Patient") he shall apply in person or by Counsel to the Royal Court sitting as an Ordinary Court in the manner prescribed by these Rules.

Procedure
for applica-
tion.

2. A person desirous of being appointed Guardian of a Patient shall give two clear days notice of his intention to make such application by delivering to Her Majesty's Greffier an application in accordance with Form 1 in the Schedule to these Rules.

Procedure
on hearing
of appli-
cations.

3. At the hearing of the application Her Majesty's Greffier shall read to the Court the form of application that has been delivered to him in accordance with the provisions of Rule 2 and shall read out any affidavit lodged with him in accordance with the provisions of Rule 4. The Family Council will be heard orally or by Attorney and the prospective Guardian shall attend and be sworn, as heretofor.

Medical
evidence.

4. (1) Where medical evidence concerning a Patient's state of health and ability to manage his affairs is required to be given in connection with any application for Guardianship whether made under these Rules or otherwise such evidence may be given orally or on affidavit, the form of which shall follow as closely as practicable that contained in Form 2 in the Schedule to these Rules.

(2) An affidavit for the purpose of this Rule shall—

- (a) If made in the Island of Guernsey be made before the Bailiff or a Jurat of the Royal Court or before a Notary Public;
- (b) If made in the Island of Alderney be made before a Jurat of the Court of Alderney or a Notary Public;

- (c) If made in the Island of Sark be made before the Seneschal;
- (d) If made in the Island of Jersey or in Great Britain, Northern Ireland or the Isle of Man be made before any person authorized by law in the place in which it is made to take sworn declarations or administer oaths;
- (e) If made elsewhere be made before either a Consular Officer of Her Majesty or any person authorized by law in the place in which it is made to take sworn declarations or administer oaths.

5. These Rules come into force on the 1st day of Commence-
March, 1989. ment.

SCHEDULE

FORM 1

In the Royal Court of Guernsey

In the matter of the application for the Guardianship of (“ the Patient ”).

To *H.M. Greffier*

I/We the persons named in Paragraph 1 hereof hereby give you notice of my/our intention to apply to be sworn as Guardian(s) of the Patient described in Paragraph 2 hereof and for this purpose hereby make oath and swear as follows :

1. DETAILS OF APPLICANT(S)

Full names of the proposed Guardian(s) (including in the case of a woman who has been married her maiden name).

- (1)
- (2)

Residential address.

- (1)
- (2)

Occupation.

- (1)
- (2)

Marital status.

- (1)
- (2)

2. DETAILS OF PATIENT

Full names of the Patient (including in the case of a woman who has been married her maiden name).

.....

Present address of Patient.

.....

Former address of Patient if hospitalised.

.....

Date and place of birth of Patient.

.....

Relationship of the Patient to the applicant (if any).

.....

3. DETAILS OF PROPOSED FAMILY COUNCIL

(i) Full names and address.

.....

.....

Relationship to the Patient.

.....

(ii) Full names and address.

.....

.....

Relationship to the Patient.

.....

(iii) Full names and address.

.....
.....

Relationship to the Patient.

.....

Are the proposed Guardian and the Family Council the closest relatives to the Patient?

Yes/No *

* If the answer to the last question is no :

(i) Explain why the closest relatives are not able to act as Guardians or as members of the Family Council.

.....
.....

(ii) Are the closest relatives aware that this application is being made?

.....

4. To the best of my knowledge the Patient's Estate comprises :—

Real property situate in the Bailiwick of Guernsey (give brief particulars—if none write "None").

.....
.....
.....
.....

Personal Estate other than furniture and personal effects (e.g. bank accounts, stocks and shares).

.....
.....
.....
.....

5. I understand that if I am appointed the Patient's Guardian:—

- (i) I will render a full account of my administration of the Patient's Estate if called upon to do so;
- (ii) I will keep the Family Council reasonably informed of the course of my administration of the Patient's Estate.

6. CONCERNING THE MEDICAL EVIDENCE

Name of the Patient's regular medical attendant and his address.

.....
.....

EITHER

The doctor will attend to give evidence orally and has been warned by me to come;*

OR

The doctor will give evidence by affidavit, which is attached hereto.

* Delete as not applicable

I further understand that at the hearing of my application by the Court I will be required to swear on oath that the particulars contained herein are correct.

FORM 2

In the Royal Court of Guernsey
In the matter of an application for the guardianship
of (“ the Patient ”).

I make oath and say as
follows:—

1. I am authorised to practise as a medical prac-
titioner in the Islands of Guernsey and Herm.

2. My professional qualifications are
.....

3. I have been the Patient’s regular medical
attendant since
According to my records the Patient was born
on

4. I last examined the Patient on
19..... at

5. Such examinations and other tests that have been
carried out revealed that the Patient is suffering
from the following symptoms:—

.....
.....
.....
.....

6. The medical condition of the Patient is such that the Patient is unable to manage his/her affairs to such an extent that the Patient requires a Guardian to be appointed for him/her.

7. EITHER

The Patient's condition is unlikely to ever improve to an extent that the need for such a Guardian will be abated.

OR

The Patient's condition is a temporary one, but in my opinion recovery to a state of health that will no longer necessitate the services of a Guardian is unlikely for at least _____ months.*

*Delete as not applicable

Sworn before me

At

This _____ day of _____ 19____

Bailiff/Jurat/Notary Public

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

PRICE 50p