

# Orders of the Royal Court

RF  
**III**  
**1990**



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 1st day of October, 1990 before Sir Charles Frossard, Kt., Bailiff; present:—Harry Wilson Bisson, Herbert Nicolle Machon, James de Sausmarez Carey, Geoffrey Ernest Le Page, Stanley Walter John Jehan, Esquires, Mrs. Dorothy Winifred Le Pelley, Leonard Arthur Moss, John Edward Morris, Charles Anthony Spensley, Kenneth John Rowe and Lawrence Oscar Ozanne, Esquires, Jurats.*

**No. 3 Order, 1990**

ENTITLED

## **The Juvenile Court (Criminal Cases) Rules, 1990**

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 35 of the Children and Young Persons (Guernsey) Law, 1967(c), section 6(5) of the Juvenile Court (Guernsey) Law, 1989(d), and of all other powers enabling it in that behalf, hereby orders:—

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- (a) Ordres en Conseil Vol. XIII, p. 288.  
(b) Ordres en Conseil Vol. XIV, p. 388.  
(c) Ordres en Conseil Vol. XXI, p. 34.  
(d) Ordres en Conseil No. VIII of 1989.

*Application of Rules. Assistance in conducting defence.*

1. These Rules shall apply in the case of a child or young person charged with an offence.

2. (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.

*Duty to explain charge*

3. 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 take plea*

4. The Court shall then ask the child or young person whether he pleads guilty or not guilty to the charge.

*Evidence in support of charge and cross-examination*

5. (1) If the child or young person does not plead guilty 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.

(2) If, in any case where the child or young person is not legally represented or assisted in his defence as provided by rule 2, 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.

*Evidence for defence*

6. If it appears to the Court that a prima facie case is made out, the child or young person shall, if he is not legally represented, be told that he may give evidence and the evidence of any witnesses for the defence shall be heard.

*Procedure after finding of guilt*

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

- (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, educational establishment or from the Children Board or Education Council may be received and considered by the Court without being read aloud; and

- (e) if the Court considers it necessary in the interest of the child or young person, it may require him or his parent or guardian, if present, to withdraw from the Court.

(2) The Court shall arrange for copies of any written report before the Court to be made available to:

- (a) the legal representative, if any, of the child or young person;
- (b) any parent or guardian of the child or young person who is present at the hearing; and
- (c) the child or young person, except where the Court otherwise directs on the ground that it appears to be impracticable to disclose the report having regard to the age and understanding of the child or young person or undesirable to do so having regard to serious harm which might thereby be suffered by him;

unless the Court is satisfied that any such report has been made available, or its contents disclosed, to such persons prior to the hearing.

(3) In any case in which the child or young person is not legally represented and where a report which has not been made available to him in accordance with a direction under paragraph 2(c) has been considered without being read aloud in pursuance of paragraph (1)(d) 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 impracticable so to do having regard to his age and understanding or undesirable so to do—

- (i) having regard to serious harm which might thereby be suffered by him; or
  - (ii) otherwise in the interests of justice; 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 unless it appears to it undesirable so to do;

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.

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

8. (1) Before finally disposing of the case, the Court shall inform the child or young person and his parent or guardian, if present, or any person assisting him in his defence, of the manner in which it proposes to deal with case and allow any of those persons so informed to make representations:

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

### *Interpretation*

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

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

“Court” means the Juvenile Court established under and by virtue of the Juvenile Court (Guernsey) Law, 1989;

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

(2) The Interpretation (Guernsey) Law, 1948(*e*) 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, rule or order shall be construed as a reference to that enactment as amended, extended, re-enacted or applied by or under any other enactment, rule or order.

### *Repeal*

10. The Magistrate’s Court (Juvenile Cases) (Procedure) Rules, 1985(*f*) are hereby repealed.

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(*e*) Ordres en Conseil Vol. XIII, p. 355.

(*f*) Orders of the Royal Court No. II of 1985.

*Citation*

11. These Rules may be cited as the Juvenile Court (Criminal Cases) Rules, 1990.

K. H. TOUGH,  
Her Majesty's Greffier.

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

**PRICE 40p**