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Issued 4 January 2010

PRACTICE DIRECTION NO 7 of 2009

Children and Family Proceedings – Proceedings, Forms and 'relevant court'

The purpose of this Practice Direction is to facilitate the introduction of the Children (Guernsey and Alderney) Law, 2008 and the Family Proceedings (Guernsey and Alderney) Rules, 2009.

Issuing proceedings

1. Proceedings should be issued in the following courts under the following circumstances:
 - (1.) All proceedings relating to married parents, where divorce and judicial separation proceedings have been issued, will continue to be dealt with in the Royal Court.
 - (2.) All proceedings relating to married parents, where divorce proceedings have not been issued and the proceedings concern issues between those parents alone, or where the applicant or one of the respondents is related to one of the parents, those proceedings can be issued in either the Guernsey Magistrate's Court or in the Royal Court.
 - (3.) All proceedings relating to married couples, where divorce proceedings have not been issued and the applicant or one of the respondents is not related to the parents, can be issued in either the Guernsey Magistrate's Court or in the Royal Court.

- (4.) All applications for leave to issue proceedings as required by the Family Proceedings (Guernsey and Alderney) Rules, 2009, and/or The Children (Guernsey and Alderney) Law, 2008 in circumstances where the parents are married and divorce proceedings have not been issued, can be made in either the Guernsey Magistrate's Court or in the Royal Court.
- (5.) All applications relating to issues regarding children of parents who are not married should be issued in the Guernsey Magistrate's Court in the first instance.
- (6.) All applications relating to issues regarding parents who are not married and the applicant, or one of the respondents is not related to either of the parents, should be issued in the Guernsey Magistrate's Court in the first instance.
- (7.) All applications relating to issues regarding parents who are not married and the applicant or one of the respondents is related to one of the parents can be issued in the Guernsey Magistrate's Court in the first instance.
- (8.) Any application by the Health and Social Services Department, or by the Convenor, or any party relating to any Orders made under the law by the Child Youth and Community Tribunal, will be issued in the Guernsey Juvenile Court in the first instance.
- (9.) All applications relating to issues regarding children resident in Alderney where the parents are married and have not issued divorce proceedings or judicial separation proceedings (save under The Separation Maintenance and Affiliation Proceedings (Alderney) Law, 1964) or are not married are to be issued in and dealt with by the Court of Alderney.
- (10.) The Guernsey Magistrate's Court can refer any application before it to the Royal Court if it considers in all the circumstances it would be appropriate to do so.
- (11.) The Royal Court can refer any application before it relating to issues relating to children to the Magistrate's Court, whether the matter was originally issued in the Magistrate's Court or not, if it considers in all the circumstances it would be appropriate to do so, - but not in any circumstances where the Royal Court are seized of any other matter or application involving the parents or the children of the family (except in Appeals).

Forms

2. A person intending to make an application to the relevant Court for an Order under the Children (Guernsey and Alderney) Law, 2008 and under any other legislation to which the Family Proceedings (Guernsey and Alderney) Rules, 2009 apply, may in the first instance file the form of application, CF1, attached to this Practice Direction.
3. Parental Responsibility Agreements, made by unmarried parents under s.7(2)(c) of the Children (Guernsey and Alderney) Law, 2008 must be made in writing, using Form CF2 attached to this Practice Direction. The Agreement must be signed in the presence of an Advocate or a Deputy Greffier, and every Agreement, once completed, must be filed at the Greffe. Full details of the procedure for completing an Agreement are set out in Form CF2.
4. Taking into account the fact that the Domestic Proceedings and Magistrate’s Court Rules, 1989 have been repealed, any application for maintenance before the Magistrate’s Court under any legislation, shall have annexed to it a copy of the applicant’s Statement of Means in identical form to the one attached to Rule 3, Schedule 4, of the Domestic Proceedings and Magistrate’s Court Rules, 1989.

Relevant court

5. For the purpose of the provision of the Children (Guernsey and Alderney) Law, 2008 described in the first column of the Schedule to this Practice Direction and, unless the context requires otherwise, any enactment or instrument made under that provision, a court described in the second column of the Schedule relating to that provision, is a relevant court.
6. References in the Schedule to a Part or section are references to the relevant Part or section of the Children (Guernsey and Alderney) Law, 2008.

S M D ROSS
Her Majesty’s Deputy Greffier

Schedule to Practice Direction No. 7 of 2009

<i>Part</i>	<i>Relevant court</i>
Part II	<p>(a) In Guernsey –</p> <p>(i) the Juvenile Court,</p> <p>(i) the Magistrate's Court, and</p> <p>(iii) the Matrimonial Causes Division of the Royal Court of Guernsey, and</p> <p>(b) in Alderney, the Court of Alderney.</p>
Part III	<p>(a) In Guernsey, the Royal Court of Guernsey sitting as an Ordinary Court, and</p> <p>(b) in Alderney –</p> <p>(i) the Court of Alderney, and</p> <p>(ii) the Royal Court of Guernsey sitting as an Ordinary Court when exercising any appellate function in relation to a decision of the Court of Alderney made under Part III.</p>
Part IV	<p>(a) In Guernsey –</p> <p>(i) the Juvenile Court,</p> <p>(i) the Magistrate's Court, and</p> <p>(iii) the Matrimonial Causes Division of the Royal Court of Guernsey, and</p> <p>(b) in Alderney –</p> <p>(i) the Court of Alderney, and</p> <p>(ii) the Matrimonial Causes Division of the Royal Court of Guernsey when exercising any appellate function in relation to a decision of the Court of Alderney made under Part IV.</p>
Section 39	<p>(a) In Guernsey, the Matrimonial Causes Division of the Royal Court of Guernsey, and</p> <p>(b) in Alderney, the Court of Alderney.</p>
Section 46(4)(a)	The court which makes the adoption order referred to in section 46(4)(a).

Section 50(1)(c)	<p>The following courts –</p> <ul style="list-style-type: none"> (a) the Juvenile Court, (b) the Magistrate's Court, (c) the Court of Alderney, and (d) the Matrimonial Causes Division of the Royal Court of Guernsey.
Provisions of Part VII other than sections 39, 46(4)(a) and 50(1)(c)	<ul style="list-style-type: none"> (a) In Guernsey – <ul style="list-style-type: none"> (i) the Juvenile Court, (i) the Magistrate's Court, and (iii) the Matrimonial Causes Division of the Royal Court of Guernsey, and (b) in Alderney – <ul style="list-style-type: none"> (i) the Court of Alderney, and (ii) the Matrimonial Causes Division of the Royal Court of Guernsey when exercising any appellate function in relation to a decision of the Court of Alderney made under Part VII, other than sections 39, 46(4)(a) and 50(1)(c) .
Sections 74 and 79	<p>The following courts –</p> <ul style="list-style-type: none"> (a) the Juvenile Court, (b) the Magistrate's Court, (c) the Court of Alderney, and (d) the Matrimonial Causes Division of the Royal Court of Guernsey.
Section 81	<p>The court which has made the order referred to in section 81(2)(a), (b) or (c).</p>
Parts XII and XIII and sections 97, 115 and 118	<p>The following courts –</p> <ul style="list-style-type: none"> (a) the Juvenile Court, (b) the Magistrate's Court, (c) the Court of Alderney, and (d) the Matrimonial Causes Division of the Royal Court of Guernsey.

FOR OFFICE USE ONLY	DATE RECEIVED:
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THE CHILDREN (GUERNSEY AND ALDERNEY) LAW, 2008
GENERAL APPLICATION FORM CF1
The Family Proceedings (Guernsey and Alderney) Rules, 2009

1. Name and address of Applicant:

Relationship to child/ren:

2. Name and address of Respondent:

Relationship to child/ren:

3. Please state what your application is for:

4. Why are you making this application?

5. Full names and ages of all children who are the subject of this application:

GENERAL APPLICATION FORM CF1 (continued)

6. Date of Marriage, if relevant:

7. Details of any previous Court Orders:

8. Signed:

Date:

PARENTAL RESPONSIBILITY AGREEMENT GUIDANCE NOTES FOR COMPLETION OF FORM CF2

PLEASE READ THESE NOTES BEFORE YOU MAKE THE AGREEMENT

The making of this Agreement will affect the legal position of the Mother and the Father. You should both seek legal advice before you make the Agreement.

1. Please use black ink.
2. Put the name of one child only. If the Father is to have parental responsibility for more than one child, please complete a separate form for each child.
3. Do not sign the agreement when you complete the form – you have to sign it in front of a witness.
4. When you have completed the agreement, please take it to an Advocate or to the Greffe, in order to sign in front of an Advocate (who may charge you) or to the Greffe.
5. If you are the child’s Mother, please bring with you the child’s full birth certificate **AND** photographic identity showing a recent photograph and signature (for example, a passport or your driving licence). If you do not have photographic identity, the witness can only witness your signature if they are satisfied as to your identity and the witness may refuse to sign if they are not satisfied of your identity.
6. If you are the child’s Father, please bring with you evidence of your identity showing a passport and signature. If you do not have photographic identity, the witness can only witness your signature if they are satisfied as to your identity and the witness may refuse to sign if they are not satisfied of your identity.
7. If you are unable to satisfy the witness as to your identity you may be asked to attend Court before one of the Judges, to swear on oath as to your identity and as to why you do not have photographic identity.
8. When the form has been properly witnessed it will be your responsibility to lodge the original with the Court. Both parents should retain copies of the Agreement for future reference.

DURATION AND TERMINATION OF PARENTAL RESPONSIBILITY

A person’s parental responsibility in respect of a child ceases –

1. When the child reaches the age of 18 years
2. Upon the child’s marriage; or
3. Upon the making of any order by a relevant Court which has the effect of terminating that person’s parental responsibility.

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**SECTION 7(2) (C) THE CHILDREN (GUERNSEY AND ALDERNEY)
LAW, 2008**

PARENTAL RESPONSIBILITY AGREEMENT FORM CF2

The Family Proceedings (Guernsey and Alderney) Rules, 2009

(Please read Form CF2 guidance notes before you make this agreement)

This is a Parental Responsibility Agreement regarding: -

The Child	Full Name:	
Boy or Girl:	Date of Birth:	Date of 18 th Birthday:
BETWEEN		
The Mother	Name: Address:	
AND		
The Father	Name: Address:	
WE DECLARE THAT we are the mother and father of the above child and we agree that the child's father shall have parental responsibility for the child (in addition to the mother having parental responsibility)		
Signed (Mother)		Signed (Father)
Date:		Date:

PARENTAL RESPONSIBILITY AGREEMENT FORM CF2 (continued)

The following evidence of identity was produced by the person signing above:	The following evidence of identity was produced by the person signing above:
Signed in the presence of: Name of witness: Address: Signature of witness:	Signed in the presence of: Name of witness: Address: Signature of witness:

**Please complete and return Form CF2 to: -
HM Greffier Greffe Royal Court House St Peter Port Guernsey GY1 2PB Tel: 01481 725277
Email: HM.Greffier@gov.gg**