

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Children and Young Persons (Regulation of Boarding-Out) Ordinance, 1968 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Recueil d'Ordonnances Tome XV, p. 328; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Education (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 318); the Children (Guernsey and Alderney) Law, 2008 (No. XIV of 2009). This Ordinance is prospectively repealed by the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010).

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The Children and Young Persons (Regulation of Boarding-Out) Ordinance, 1968

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(Made on 27th March, 1968.)

The Children and Young Persons (Regulation of Boarding-Out) Ordinance, 1968

THE STATES, in exercise of the powers conferred upon them by section thirty-three of the Children and Young Persons (Guernsey) Law, 1967^a, hereby order: –

PART I

Interpretation

Interpretation.

1. (1) In this Ordinance, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"authorised medical practitioner" means –

- (a) as respects the Islands of Guernsey, Herm and Jethou, a medical practitioner authorised to practise as such in the Island of Guernsey according to the law for the time being in force,
- (b) as respects the Islands of Alderney and Sark, a medical practitioner authorised as aforesaid or a medical practitioner approved by [the Committee],

"[the Committee]" means the [Committee for Health & Social Care],

"child" means a person under the age of eighteen years,

^a Ordre en Conseil No. 1 of 1967.

"foster parents" means persons with whom a child is for the time being or is proposed to be boarded out,

"visitor" means a person carrying out on behalf of [the Committee] any of the duties under this Ordinance to see children who are boarded out and to visit the homes of foster parents.

(2) Except where the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as including a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment.

(3) The Interpretation (Guernsey) Law, 1948^b, shall apply to the interpretation of this Ordinance throughout the Bailiwick.

NOTES

In section 1, the words, first, "the Committee" and, second, "Committee for Health & Social Care" in square brackets in the definition of the expression "the Committee" in subsection (1) and, third, "the Committee" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6, section 2, Schedule 1, paragraph 5 and section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

In accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008, section 123, Schedule, paragraph 3, with effect from 4th January, 2010, this Ordinance is one of those specific enactments that the States may repeal, amend, extend, adapt, modify or disapply, and make transitional and savings provisions in relation to, by Ordinance made under the said section 123.

^b Ordres en Conseil Vol. XIII, p. 355.

PART II

General

Application of Ordinance.

2. (1) Subject to the provisions of subsection (2) and subsection (3) of this section, the provisions of this Ordinance shall apply to the boarding by [the Committee] of a child in its care with foster parents to live in their dwelling as a member of their family, and the boarding of a child to which the provisions of this Ordinance apply as aforesaid is hereafter in this Ordinance referred to as "**boarding-out**", and "**board out**" and "**boarded out**" shall be construed accordingly.

(2) For the purposes of this Ordinance a child who is delivered into the care and possession of persons or a person proposing to adopt him under the Adoption (Guernsey) Law, 1960^c, shall not be regarded as boarded out.

(3) For the purposes of this Ordinance a child shall not be regarded as boarded out by reason only that he stays in the dwelling of any person for a holiday if the period of his stay does not exceed twenty-one days.

(4) Nothing in this Ordinance shall require, for the purpose only of complying with any provision thereof relating to a child before he is boarded out, his temporary removal from a household in which he is already living.

NOTE

In section 2, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Persons with whom children may be boarded out.

3. (1) Subject to the provisions of subsection (2) of this section, a child shall not be boarded out except with –

^c Ordres en Conseil Vol. XVIII, p. 192.

- (a) a husband and wife jointly, or
- (b) a woman, or
- (c) a man who is a grandfather, uncle or elder brother of the child.

(2) If while a child is boarded out one of his foster parents dies or a woman being his foster parent ceases to live in the household where the child is, nothing in this Ordinance shall require the child's removal therefrom and he may be boarded out with the other spouse or with another suitable member of the same household, as the case may be.

Restriction on boarding-out outside the Bailiwick.

4. A child shall not be boarded out outside the Bailiwick unless the special circumstances of his case make such boarding-out desirable, and if a child is boarded out outside the Bailiwick, steps shall be taken to ensure that the like requirements as are specified in section three, section eight, section nine and, as the case may be, section fifteen, section seventeen, section eighteen, section nineteen and section twenty-three or section twenty-four of this Ordinance are observed in relation to that child as would have had to be observed under this Ordinance if he were boarded out in the Bailiwick.

Duty of [the Committee] to terminate boarding-out.

5. Where [the Committee] has arranged the boarding-out of a child, [the Committee] shall not allow him to remain boarded out with any foster parents if it appears that the boarding-out is no longer in his best interests.

NOTE

In section 5, the words "[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Power of supervising visitor to remove child.

6. Where a visitor whose duty it is under this Ordinance to supervise the welfare of a child considers that the conditions in which he is boarded out endanger his health, safety or morals, that visitor may remove him from the foster parents forthwith.

Medical examination before boarding-out.

7. Except in a case of emergency, a child shall not be boarded out with foster parents unless he has within three months before being placed with them been examined by an authorised medical practitioner and the practitioner has made a written report to [the Committee] on the physical health and mental condition of the child.

NOTE

In section 7, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Medical examinations during boarding-out.

8. (1) Where [the Committee] has arranged the boarding-out of a child, [the Committee] shall ensure that he is examined by an authorised medical practitioner –

- (a) within one month after being boarded out unless the child has attained the age of two years and has, under the last preceding section, been so examined within three months before being boarded out, and
- (b) at least once in every six months if he has not attained the age of two years or at least once a year if he has attained that age.

(2) Arrangements shall be made for a written report on the physical health and mental condition of the child to be made to [the Committee] by the practitioner after each such examination as aforesaid.

NOTE

In section 8, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Arrangements for medical and dental attention.

9. Adequate arrangements shall be made for a child who is boarded out to receive medical and dental attention as required.

Reports by visitors.

10. Whenever, in pursuance of this Ordinance, a visitor sees a child who is boarded out, he shall after considering the welfare, health, conduct and progress of the child and any complaint made by or concerning him, make a written report to [the Committee] about the child, and whenever a visitor so visits the dwelling of foster parents he shall make a written report to [the Committee] about its condition.

NOTE

In section 10, the words "[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Case records to be kept by [the Committee].

11. (1) [The Committee] shall compile a case record in respect of every child boarded out by [the Committee], and the said record shall be kept up-to-date.

(2) Every case record compiled under this section shall be preserved for at least three years after the child to whom it relates has attained the age of eighteen years or has died before attaining that age.

NOTE

In section 11, the words "T/[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with

effect from 1st May, 2016.

Register to be kept by [the Committee].

12. (1) [The Committee] shall, in respect of every child boarded out, enter in a register to be kept for the purpose the particulars specified in subsection (2) of this section.

(2) The particulars to be so entered in the case of every such child are his name, sex, date of birth and religious persuasion, the name and religious persuasion of each foster parent and their address, the dates on which boarding-out on each occasion begins and ceases, and the reason why it ceases.

(3) Every register kept under this section shall be preserved for at least five years after every child with respect to whom particulars are entered therein has or would have attained the age of eighteen years.

NOTE

In section 12, the words "T/[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

PART III

Provisions applicable to boarding-out for a period exceeding eight weeks

Application of Part III.

13. This Part of this Ordinance shall have effect only with regard to the boarding-out of a child as a member of a household wherein he is expected to remain for a period exceeding eight weeks, or, as the case may require and subject to the proviso to section twenty-five of this Ordinance, he has remained for a period exceeding eight weeks.

Prior visits to and reports about foster homes.

14. A child shall not be boarded out unless –

- (a) the foster parents and the dwelling where the child will live have been visited by a visitor who is personally acquainted with the child and his needs, or, when that is not practicable, by a visitor who has been fully informed thereof, and the visitor has reported in writing to [the Committee] that the sleeping and living accommodation and other domestic conditions at the dwelling are satisfactory and that the household of the foster parents is likely to suit the particular needs of the child,
 - (b) information has been obtained by a visitor and a written report made by him to [the Committee] –
 - (i) on the reputation and religious persuasion of the foster parents and their suitability in age, character, temperament and health to have the charge of the child,
 - (ii) as to whether any member of the foster parents' household is believed to be suffering from any physical or mental illness which might adversely affect the child or to have been convicted of any offence which would render it undesirable that the child should associate with him, and
 - (iii) on the number, sex and approximate ages of the persons in that household, and
 - (c) the available history of the child and the relevant reports indicate that boarding-out in that household would be in the best interests of the child.
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NOTE

In section 14, the words "[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Religious persuasion.

15. Where possible a child shall be boarded out with foster parents who either are of the same religious persuasion as the child or give an undertaking that he will be brought up in his religious persuasion.

Undertaking to be given by foster parents.

16. (1) [The Committee] shall require foster parents to sign an undertaking in respect of any child boarded out with them in the form set out in the Schedule to this Ordinance, or in a form to the like effect.

(2) The said undertaking shall be kept by [the Committee] and a copy thereof shall be left with the foster parents.

NOTE

In section 16, the words "T/[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Visits during boarding-out.

17. Where [the Committee] has arranged the boarding-out of a child, [the Committee] shall ensure that a visitor sees the child and visits the dwelling of the foster parents –

- (a) within one month after the commencement of the boarding-out,
- (b) thereafter as often as the welfare of the child requires, but not less often than –

- (i) in the case of a child boarded out with foster parents in whose household he has been less than two years, if the child has not attained the age of five years, once in every six weeks, or, if he has attained that age, once in every two months, or
- (ii) in the case of a child who has been in the household of the foster parents more than two years, once in every three months,
- (c) within one month after any change of dwelling by the foster parents, and
- (d) forthwith after the receipt of a complaint by or concerning the child, unless it appears that action thereon is unnecessary.

NOTE

In section 17, the words "[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Review of welfare, health, conduct and progress.

18. (1) [The Committee] shall ensure that a review of the welfare, health, conduct and progress of every child who is boarded out by them is made in the light of the reports written about him in pursuance of this Ordinance –

- (a) within three months after the child is placed with any foster parents, and
- (b) thereafter, so long as he remains boarded out with those foster parents, as often as is expedient in the particular case, but not less often than once in every six months.

(2) The said review shall be made, so far as is practicable, by persons who do not usually act as visitors, and a note thereof shall be entered in the case record relating to the child, with particulars of any action recommended as a result.

NOTE

In section 18, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Special provisions as to children who have ceased to be of compulsory school age.

19. (1) Nothing in section sixteen or section seventeen of this Ordinance shall apply in relation to the boarding-out of a child who has ceased to be of compulsory school age.

(2) Where a child has already ceased to be of compulsory school age when boarded out with foster parents with whom he was not boarded out when he so ceased, [the Committee] shall require them to sign an undertaking in respect of him containing such parts of the form of undertaking set out in the Schedule to this Ordinance, with or without modifications, as appear appropriate to his case.

(3) Where a child over compulsory school age is boarded out [the Committee] shall ensure that a visitor sees the child –

- (a) in the case of a child who is already boarded out when he ceases to be of compulsory school age, within three months after so ceasing, or, in the case of a child who is already over that age when boarded out with foster parents, within one month after the commencement of the boarding-out,
- (b) thereafter not less often than once in every three months,

- (c) within one month after any change of dwelling by the foster parents, and
- (d) forthwith after the receipt of a complaint by or concerning the child, unless it appears that action thereon is unnecessary.

NOTES

In section 19, the words "[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the references in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.

PART IV

Provisions applicable to boarding-out for a period expected not to exceed eight weeks in all

Application of Part IV.

20. This Part of this Ordinance shall have effect only with regard to the boarding-out of a child as a member of a household wherein he is expected not to remain for a period exceeding eight weeks in all.

Prior visits to and reports about foster homes.

21. A child shall not be boarded out unless the foster parents and the dwelling where the child will live have been visited by a visitor who has reported in writing to [the Committee] that the boarding-out of the child with those foster parents would be suitable to the needs of the child for a period not exceeding eight weeks.

NOTE

In section 21, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Undertaking to be given by foster parents or notification in lieu.

22. In the case of a child who is not over compulsory school age, [the Committee] shall either –

- (a) comply with the provisions of section sixteen of this Ordinance as if that section were included in this Part of this Ordinance, or
- (b) send a letter to the foster parents stating the religious persuasion of the child and specifying the obligations which they would have been required to undertake in respect of the child if the provisions of the said section sixteen had applied to the case.

NOTES

In section 22, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the references in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.

Visits during boarding-out.

23. (1) Where [the Committee] has arranged the boarding-out of a child who is not over compulsory school age, [the Committee] shall ensure that a visitor sees the child and visits the dwelling of the foster parents –

- (a) within two weeks after the commencement of the boarding-out,
- (b) thereafter not less often than once in every four weeks,

and

- (c) forthwith after the receipt of a complaint by or concerning the child, unless it appears that action thereon is unnecessary.

(2) Where [the Committee] has arranged the boarding-out of a child who is over compulsory school age, [the Committee] shall ensure that a visitor sees the child –

- (a) within one month after the commencement of the boarding-out, and
- (b) forthwith after the receipt of a complaint by or concerning him, unless it appears that action thereon is unnecessary.

NOTES

In section 23, the words "[the Committee]" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In accordance with the provisions of subsection (5) of section 16 of the Education (Guernsey) Law, 1970, with effect from 28th October, 1970, the references in this section to "compulsory school age" shall be construed in accordance with the provisions of that section.

Boarding-out at intervals with the same foster parents.

24. Where a child who is receiving full-time education has been boarded out with foster parents and within four months of ceasing to be boarded out with them is again boarded out with them, section seven, section eight, section twenty-one, section twenty-two and section twenty-three of this Ordinance shall not apply to that boarding-out, but [the Committee] shall ensure that a visitor sees the child and visits the dwelling of the foster parents –

- (a) within one month after the commencement of the boarding-out, and

- (b) forthwith after the receipt of a complaint by or concerning the child, unless it appears that action thereon is unnecessary.

NOTE

In section 24, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Provisions where boarding-out extends beyond eight weeks.

25. If, while this Part of this Ordinance has effect with regard to a boarding-out, it becomes expedient that the child boarded out should remain for a period longer than eight weeks in all in the household of which he is already a member, then at the expiration of the said period this Part of this Ordinance shall cease to have effect with regard thereto and the provisions of Part III of this Ordinance shall have effect as if the child were about to be, or, as the case may require, were, boarded out in that household in such circumstances that the said Part III applied, so however that anything done under this Part of this Ordinance which satisfies any requirement of the said Part III shall be deemed to have been done thereunder:

Provided that, if it appears to [the Committee] that the period in excess of eight weeks during which the child will remain boarded out as aforesaid will not exceed four weeks, then this section shall not take effect until the expiration of that further period of four weeks.

NOTE

In section 25, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

PART V

Supplementary

Transitional provisions.

26. Nothing in section three or in section sixteen of this Ordinance shall have effect in relation to the boarding-out of a child with foster parents with whom he is boarded out immediately before the coming into force of this Ordinance, so long as he remains boarded out with them.

Extent.

27. This Ordinance shall have effect throughout the Bailiwick.

Citation.

28. This Ordinance may be cited as the Children and Young Persons (Regulation of Boarding-Out) Ordinance, 1968.

NOTE

The Ordinance was made and came into operation on 27th March, 1968.

SCHEDULE Section sixteen, section nineteen and section twenty-two

FORM OF UNDERTAKING TO BE SIGNED BY FOSTER PARENTS

We/I, A.B. {and B.B. }, of _____ having
on the _____ day of _____, 19____, received from the
[Committee for Health & Social Care] (hereinafter called "[the Committee]"),
_____ who was
born on the _____ day of _____, 19____, and whose
religious persuasion is _____, into our/my home as a
member of our/my family undertake that –

1. We/I will care for him/her and bring him/her up as we/I would a child of our/my own.
2. He/she will be brought up in, and will be encouraged to practise, his/her religion.
3. We/I will look after his/her health and consult a doctor whenever he/she is ill and will allow him/her to be medically examined at such times and places as [the Committee] may require.
4. We/I will inform [the Committee] immediately of any serious occurrence affecting the child.
5. We/I will at all times permit any person so authorised by [the Committee] to see him/her and visit our/my home.
6. We/I will allow him/her to be removed from our/my home when so requested by a person authorised by [the Committee].
7. If we/I decide to move, we/I will notify the new address to [the Committee] before we/I go.

(Sgd.)

(Sgd.)

Dated

NOTE

In the Schedule, the words, first, "Committee for Health & Social Care" and, second, "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 5 and section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.³

¹ The words "Committee for Health & Social Care" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the States Children Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 8, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

³ The words "Committee for Health & Social Care" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 8, with effect from 6th May, 2004.