

## **The Children and Young Persons (Secure Accommodation) Ordinance, 1997**

**THE STATES**, in pursuance of their Resolution of the 26th day of September, 1996<sup>a</sup>, and in exercise of the powers conferred upon them by section 1(2) and (6) and section 2 of the Secure Accommodation (Guernsey) Law, 1997<sup>b</sup>, hereby order:-

### **Approval by Board of secure accommodation.**

1. Accommodation shall not be used as secure accommodation unless it has been approved by the Board for such use and approval shall be subject to such terms and conditions as it sees fit.

### **Placement of a juvenile aged under 13 in secure accommodation.**

2. A juvenile under the age of 13 years shall not be placed in secure accommodation without the prior approval of Her Majesty's Procureur to the placement of that juvenile.

### **Remanded juveniles to whom section 1 of the Law shall have effect subject to modifications.**

3. (1) Section 1 of the Law shall have effect subject to the modification specified in subsection (2) in relation to juveniles remanded in the custody of the Board under section 9(1)(b) of the Juvenile Court (Guernsey) Law, 1989<sup>c</sup> but only if-

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<sup>a</sup> Article XVIII of Billet d'État No. XXII of 1996.

<sup>b</sup> Order in Council No. IX of 1997.

<sup>c</sup> Ordres en Conseil Vol. XXXI, p. 326.

- (a) the juvenile is charged with or has been convicted of a violent or sexual offence, or of an offence punishable in the case of an adult with imprisonment for a term of 10 years or more, or
- (b) the juvenile has a recent history of absconding while remanded in the custody of the Board, and is charged with or has been convicted of an imprisonable offence alleged or found to have been committed while he was so remanded.

(2) The modification referred to in subsection (1) is that, for the words "unless it appears" to the end of subsection (1), there shall be substituted the following words-

"unless it appears that any accommodation other than that provided for the purpose of restricting liberty is inappropriate because-

- (a) the juvenile is likely to abscond from such other accommodation, or
- (b) the juvenile is likely to injure himself or other people if he is kept in any such other accommodation."

**Applications to the Court.**

4. Applications to the Court under section 1 of the Law shall be made only by the Board.

**Maximum period in secure accommodation without Court authority.**

5. (1) Subject to subsections (2) and (3), the maximum period beyond which a juvenile to whom section 1 of the Law applies may not be kept in secure accommodation without the authority of the Court is an aggregate of 72 hours (whether or not consecutive) in any period of 28 consecutive days.

(2) Where authority of the Court to keep a juvenile in secure accommodation has been given, any period during which the juvenile has been kept in such accommodation before the giving of that authority shall be disregarded for the purposes of calculating the maximum period in relation to any subsequent occasion on which the child is placed in such accommodation after the period authorised by the Court has expired.

(3) Where a juvenile is in secure accommodation at any time between 12 midday on the day before and 12 midday on the day after a public holiday or a Sunday, and-

- (a) during that period the maximum period specified in subsection (1) expires, and
- (b) the juvenile had, in the 27 days before the day on which he was placed in secure accommodation, been placed and kept in such accommodation for an aggregate of more than 48 hours,

the maximum period does not expire until 12 midday on the first day, which is not itself a public holiday or a Sunday, after the public holiday or Sunday.

**Maximum initial period of authorisation by the Court.**

6. The maximum period for which the Court may authorise a juvenile to whom section 1 of the Law applies to be kept in secure accommodation is 8 days.

**Further periods of authorisation by the Court.**

7. The Court may from time to time authorise a juvenile to whom section 1 of the Law applies to be kept in secure accommodation for a further period not exceeding 8 days at any one time:

PROVIDED THAT the Court shall not authorise such a juvenile to be kept in secure accommodation for more than 28 consecutive days at any one time.

**Maximum periods of authorisation by Court for remanded juveniles.**

8. (1) Notwithstanding sections 6 and 7, the maximum period for which the Court may from time to time authorise a juvenile who has been remanded in the custody of the Board under section 9(1)(b) of the Juvenile Court (Guernsey) Law, 1989 to be kept in secure accommodation (whether the period is an initial period or a further period) is the period of the remand.

(2) Any period of authorisation of such a juvenile shall not exceed 28 days on any one occasion without further authorisation by the Court.

(3) The proviso to section 7 shall not apply to such a juvenile.

**Duty to inform parents and others in relation to juveniles in secure accommodation.**

9. Where a juvenile to whom section 1 of the Law applies is kept in secure accommodation and it is intended that an application will be made to the

Court to keep the juvenile in that accommodation, the Board shall if practicable inform of that intention as soon as possible-

- (a) his parent,
- (b) any person who is not a parent of his but who has parental responsibility for him, and
- (c) any other person who the Board considers should be informed.

**Review of placement in secure accommodation.**

**10.** (1) In relation to a juvenile placed in secure accommodation, the Board shall appoint at least two of its officers to review the keeping of the juvenile in such accommodation within 48 hours and then at intervals not exceeding 4 days where the juvenile continues to be kept in such accommodation.

(2) The officers so appointed to review the keeping of a juvenile in secure accommodation shall satisfy themselves as to whether or not-

- (a) the criteria for keeping the juvenile in secure accommodation continue to apply;
- (b) the placement in such accommodation continues to be necessary; and
- (c) any other description of accommodation would be appropriate for him,

and in doing so shall have regard to the welfare of the juvenile whose case is being reviewed.

(3) In undertaking the review referred to in subsection (1), the officers appointed shall, if practicable, ascertain and take into account the wishes and feelings of-

- (a) the juvenile,
- (b) any parent of his,
- (c) any person not being a parent of his but who has parental responsibility for him,
- (d) any other person who has had care of the juvenile, whose views the officers consider should be taken into account.

(4) The Board shall, if practicable, inform all those whose views are required to be taken into account under subsection (3) of the outcome of the review and the reasons for such outcome.

**Records to be kept in respect of a juvenile in secure accommodation.**

11. Whenever a juvenile is placed in secure accommodation the Board shall ensure that a record is kept of-

- (a) the name, date of birth and sex of that juvenile;
- (b) the care order or other statutory provision by virtue of which the juvenile is in the care of the Board;

- (c) the date and time of his placement in secure accommodation, the reason for his placement, the name of the officer authorising his placement and where the juvenile was living before the placement;
- (d) all those informed by virtue of sections 9 and 10(3) in their application to the juvenile;
- (e) court orders made in respect of the juvenile by virtue of section 1 of the Law;
- (f) reviews undertaken in respect of the juvenile by virtue of section 10(1);
- (g) the date and time of any occasion on which the juvenile is locked on his own in any room in the secure accommodation other than his bedroom during usual bedtime hours, the name of the person authorising this action, the reason for it and the date on which and the time at which the juvenile ceases to be locked in that room; and
- (h) the date and time of his discharge and his address following discharge from secure accommodation.

**Interpretation.**

**12.** In this Ordinance, unless the context otherwise requires-

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller;

"the Law" means the Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997;

"secure accommodation" means accommodation which is provided for the purpose of restricting the liberty of juveniles to whom section 1 of the Law applies;

and any other expression shall have the same meaning as in the Law.

**Citation.**

13. This Ordinance may be cited as the Children and Young Persons (Secure Accommodation) Ordinance, 1997.

**Commencement.**

14. This Ordinance shall come into force on the 25th June, 1997.