

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 \***

*[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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\* No. VII of 2010; as amended by the Population Management (Guernsey) Law, 2016 (No. VI of 2016); the Income Support (Guernsey) Law, 2017 (No. IV of 2018); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Ordinance is prospectively amended by the Marriage (Bailiwick of Guernsey) Law, 2020 (No. \*\* of 2020).

# ORDINANCE

## OF THE STATES OF DELIBERATION

ENTITLED

### **The Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009**

#### ARRANGEMENT OF SECTIONS

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2. Guardians and references to guardians in enactments.
3. Consequential amendments and repeals.
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*(Made on 16th December, 2009.)*

## **The Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009**

**THE STATES LEGISLATION SELECT COMMITTEE**, in exercise of the powers conferred on the States by section 123 of the Children (Guernsey and Alderney) Law, 2008<sup>a</sup> and all other powers enabling them in that behalf, and in exercise of the powers conferred on the Committee by Article 66(3) of the Reform Guernsey Law, 1948<sup>b</sup>, as amended, and in pursuance of the Resolution of 28<sup>th</sup> October, 2004<sup>c</sup>, hereby order: –

### **Meaning of "parent" in enactments.**

1. (1) In any provision of an enactment relating to children, unless –
  - (a) in any legal proceedings it appears to a court that such an interpretation would lead to injustice, or
  - (b) the context otherwise requires,

**"parent"** means, in relation to a child, a father or mother who has parental responsibility in respect of the child.

- (2) Subsection (1) shall not apply to –

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<sup>a</sup> Order in Council No. XIV of 2009.

<sup>b</sup> Ordres en Conseil Vol. XIII, p.288 (there are amendments not material to this Ordinance).

<sup>c</sup> Article XVII of Billet d'État No. XVII of 2004.

- [(a) the Population Management (Guernsey) Law, 2016,  
and]
- (b) any provision of an enactment relating to inheritance.

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**NOTE**

*In section 2, paragraph (a) of subsection (2) was substituted by the Population Management (Guernsey) Law, 2016, section 86, Schedule 4, paragraph 5, with effect from 3rd April, 2017.*

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**Guardians and references to guardians in enactments.**

2. For the avoidance of doubt, for the purposes of any provision of an enactment, a guardian or a person referred to as a guardian has parental responsibility in respect of a child if –

- (a) he has been appointed as a guardian of that child –
  - (i) under Part III of the Law,
  - (ii) by will or other document validly executed for the purpose and the appointment has taken effect,
  - (iii) under the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978<sup>e</sup>, or
  - (iv) under the law of tutelle or otherwise under the customary law of Guernsey or Alderney, or

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<sup>e</sup> Ordres en Conseil Vol. XXVI, pg. 264.

- (b) he is referred to as a guardian and he is a person who, in the opinion of a court –
  - (i) has been appointed by a court of competent jurisdiction to fulfil the role of parent, and
  - (ii) should be regarded as having parental responsibility in respect of that child.

**Consequential amendments and repeals.**

3. Schedule 1 (which makes consequential amendments and repeals) has effect.

**Savings and transitional provisions.**

4. Schedule 2 (which makes savings and transitional provisions) has effect.

**Interpretation.**

5. For the purposes of this Ordinance –

- (a) "**the Law**" means the Children (Guernsey and Alderney) Law, 2008, and
- (b) unless the contrary intention requires, words or expressions which are defined in the Law have the same meanings as in the Law.

**Citation.**

6. This Ordinance may be cited as the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009.

**Commencement.**

7. (1) Subject to subsection (2), this Ordinance shall come into force on 4<sup>th</sup> January 2010.

(2) Paragraphs 7, 10(b)(i), 15(c) and 17(a) of Part I and paragraph 3 of Part II of Schedule 1 shall come into force on the making of regulations under section 25 of the Law.

SCHEDULE 1

Section 3

CONSEQUENTIAL AMENDMENTS AND REPEALS

PART I

LAWS

**Loi relative à la Protection des Femmes et Filles Mineures, 1914<sup>f</sup>**

1. In the Loi relative à la Protection des Femmes et Filles Mineures, 1914

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- (a) in Article 5, for "la garde légale", substitute "'parental responsibility', selon la Children (Guernsey and Alderney) Law, 2008",
- (b) in Article 7, for "ou fille", substitute "ou autre personne qui a 'parental responsibility' à l'égard d'une fille, selon la Children (Guernsey and Alderney) Law, 2008", and
- (c) in Article 8, for "le maître ou la maîtresse à la garde duquel la fille a été commise", substitute "ou une personne qui a 'parental responsibility' à l'égard de la fille, selon la Children (Guernsey and Alderney) Law, 2008".

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<sup>f</sup> Ordres en Conseil Vol. V, p. 74; Vol. VIII, p. 458; Vol. XII, p. 25; Vol. XV, p. 250; Vol XXI, p. 34 and Vol. XXXIII, p. 49.

**Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes, 1917<sup>g</sup>.**

2. In the Loi ayant rapport à la Protection des Enfants et des Jeunes Personnes, 1917 –

- (a) in paragraph 1 of Article 7, for "la custodie ou le soin d'un enfant ou d'une jeune personne", substitute "'parental responsibility' à l'égard d'un enfant ou d'une jeune personne, selon la Children (Guernsey and Alderney) Law, 2008",
- (b) in paragraphs 1 and 2 of Article 9, for "la custodie ou le soin d'un enfant ou d'une jeune personne", substitute "'parental responsibility' à l'égard d'un enfant ou d'une jeune personne, selon la Children (Guernsey and Alderney) Law, 2008",
- (c) in Article 10, for "la custodie ou le soin", substitute "'parental responsibility', selon la Children (Guernsey and Alderney) Law, 2008, à l'égard",
- (d) in Article 11, for "la custodie ou le soin", substitute "'parental responsibility', selon la Children (Guernsey and Alderney) Law, 2008, à l'égard", and
- (e) in Article 12, for "the custody, charge or care of a girl under the age of sixteen years", substitute "parental responsibility in respect of a girl under the age of sixteen, in accordance with the Children (Guernsey and

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<sup>g</sup> Ordres en Conseil Vol. V, p. 345; Vol. VII, p. 396; Vol. XI, p. 116; Vol. XVI, p. 277; Vol. XX, p. 59; Vol XXI, p. 34; XXVIII, p. 198 and Vol. XXXIII, p. 49.

Alderney) Law, 2008".

**Loi sur l'Éducation Élémentaire et l'Instruction Obligatoire, 1924<sup>h</sup>.**

3. In the Loi sur l'Éducation Élémentaire et l'Instruction Obligatoire, 1924 –

- (a) in paragraph (5) of Article V, for ", au tuteur ou autre personne qui a la garde de le'enfant", substitute "ou autre personne qui a 'parental responsibility' à l'égard d'un enfant, selon la Children (Guernsey and Alderney) Law, 2008.",
- (b) in paragraph (c) of Article XIII, for "tuteur ou gardien de l'enfant", substitute "autre personne ayant 'parental responsibility' à l'égard de l'enfant, selon la Children (Guernsey and Alderney) Law, 2008",
- (c) in Article XIV –
  - (i) immediately after "par le parent", insert "ou autre personne, qui a 'parental responsibility' à l'égard d'un enfant, selon la Children (Guernsey and Alderney) Law, 2008,", and
  - (b) immediately after "toutefois que le parent", insert ", ou autre personne ayant 'parental responsibility' à l'égard de l'enfant,",
  - (d) in the second paragraph of Article XV for ", tuteur ou

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<sup>h</sup> Ordres en Conseil Vol. VII, p. 256 and Vol. VIII, p. 382.

gardien", substitute "ou d'autre personne ayant 'parental responsibility' à l'égard de l'enfant, selon la Children (Guernsey and Alderney) Law, 2008", and

- (e) in the final clause to Article XVIII, immediately after "Tout parent", insert ", ou autre personne ayant 'parental responsibility' à l'égard de l'enfant, selon la Children (Guernsey and Alderney) Law, 2008,".

**Loi relative à l'enregistrement des Naissances et Décès dans l'Île d'Auregny, 1925<sup>i</sup>.**

4. In the Loi relative à l'enregistrement des Naissances et Décès dans l'Île d'Auregny, 1925 –

- (a) in Article 1, for "et toute personne ayant soin de l'enfant", substitute "de l'enfant et toute personne qui a 'parental responsibility' à l'égard de l'enfant, selon la Children (Guernsey and Alderney) Law, 2008", and
- (b) in Articles 3 and 5, for "le tuteur de l'enfant", substitute "une autre personne qui a 'parental responsibility' à l'égard de l'enfant, selon la Children (Guernsey and Alderney) Law, 2008".

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<sup>i</sup> Ordres en Conseil Vol. VII, p. 417; Vol. XV, p. 46 and Vol. XX, p. 267.

**Loi ayant rapport à l'Emploi de Femmes, de Jeunes Personnes et d'Enfants, 1926<sup>j</sup>.**

5. In Article II(b) of the Loi ayant rapport à l'Emploi de Femmes, de Jeunes Personnes et d'Enfants, 1926, immediately after "parent", wherever appearing, insert "or other person with parental responsibility under the Children (Guernsey and Alderney) Law, 2008".

**Loi relative à l'Entretien des Enfants Illégitimes, 1927<sup>k</sup>.**

6. In paragraph (2) of Article 5 of the Loi relative à l'Entretien des Enfants Illégitimes, 1927 –

- (a) for "person for the time being having custody of the child", substitute "person having parental responsibility in respect of the child under the Children (Guernsey and Alderney) Law, 2008", and
- (b) for "person having custody of the child.", substitute "person having parental responsibility in respect of the child."

**Loi ayant rapport à l'Asile des Enfants, 1928<sup>l</sup>.**

7. The Loi ayant rapport à l'Asile des Enfants, 1928 is repealed.

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<sup>j</sup> Ordres en Conseil Vol. VIII, p. 29.

<sup>k</sup> Ordres en Conseil Vol. VIII, p.130; Vol. XVI, p. 173; Vol. XXVIII, p. 418; Vol. XXIX, p. 337; Vol. XXXI, p. 171 and Vol. XXXIV, p. 129.

<sup>l</sup> Ordres en Conseil Vol. VIII, p. 238 and Vol. XI, p. 91.

**Loi relative à la Vaccination des Enfants, 1929<sup>m</sup>.**

8. In the Article Général containing definitions at the commencement of the Loi relative à la Vaccination des Enfants, 1929, for "charge d'un enfant", substitute "'parental responsibility' à l'égard d'un enfant, selon la Children (Guernsey and Alderney) Law, 2008."

**Matrimonial Causes (Guernsey) Law, 1939<sup>n</sup>.**

9. In the Matrimonial Causes (Guernsey) Law, 1939 –

(a) in Article 43 –

(i) in the title omit "custody," and "etc.", and

(ii) in paragraph (1), for "custody, maintenance and education of the children and access to" substitute "maintenance of", and

(b) Article 43A is repealed.

**Family Allowances (Guernsey) Law, 1950<sup>o</sup>.**

10. In the Family Allowances (Guernsey) Law, 1950 –

(a) in section 3(1) –

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<sup>m</sup> Ordres en Conseil Vol. VIII, p. 355.

<sup>n</sup> Ordres en Conseil Vol. XI, p.318, Vol. XII, p. 278; Vol. XIII, p. 38; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489; Vol. XXVII, p. 99; Vol. XXXI, p. 171; Vol. XXXII, p. 85; Vol. XXXVI, p. 639; Vol. XXXVII, p. 308 and Orders in Council Nos. XI and XXXI of 2003.

<sup>o</sup> Ordres en Conseil Vol. XIV, p. 332; Vol. XVI, p. 280; Vol. XX, p. 63; Vol. XXI, p. 34; Vol. XXII, p. 318; Vol. XXIII, pp. 3 and 238; Vol. XXVI, p. 150 and Vol. XXVIII, p. 406; Order in Council No. VI of 1999.

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- (i) in paragraph (a), immediately after "maintained by them", insert "or in respect of whom one of them has a residence order made under the Children (Guernsey and Alderney) Law, 2008 in his favour",
  - (ii) in paragraph (b), immediately after "maintained by him", insert "or in respect of whom he has a residence order in his favour",
  - (iii) in paragraph (c), immediately after "maintained by her", insert "or in respect of whom she has a residence order in her favour", and
  - (iv) in paragraph (d), immediately after "maintained by them, him or her", insert "or in respect of whom one of them has a residence order in his favour",
- (b) in section 11-
- (i) paragraph (b) is repealed,
  - (ii) paragraph (d) is repealed,
  - (iii) for paragraph (e), substitute the following paragraph –
    - "(e) subject to any order by which he is placed out of the jurisdiction pursuant to

Part XI of the Children (Guernsey and Alderney) Law, 2008, and", and

(iv) for paragraph (f), substitute the following paragraph –

"(f) subject to a community parenting order under the Children (Guernsey and Alderney) Law, 2008 and is placed other than with his parents", and

(c) in section 20(1), immediately after "to all the circumstances", insert "and, for the avoidance of doubt, a person provides for a child where he has a residence order, made under the Children (Guernsey and Alderney) Law, 2008, in his favour in respect of that child".

**Marriage (Amendment) Law, 1951<sup>P</sup> and Marriage (Alderney) (Amendment)**

**Law 1953<sup>Q</sup>**

**11.** In the Marriage (Amendment) Law, 1951 and the Marriage (Alderney) (Amendment) Law 1953 –

(a) in section 1(1) of both Laws –

(i) for the words "the consent of the person or persons specified in the Schedule to the this Law", substitute "subject to the provisions of

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<sup>P</sup> Ordres en Conseil Vol. XV, p. 200.

<sup>Q</sup> Ordres en Conseil Vol. XV, p. 382.

section 9 of the Children (Guernsey and Alderney) Law, 2008, the consent of a person with parental responsibility in respect of that child, or a court by way of a specific issue order under section 17 of that Law," and

- (ii) the proviso is repealed,
- (b) sections 1(3) and 2 of both Laws are repealed, and
- (c) the Schedule to both Laws is repealed.

**Child Protection (Alderney) Law, 1953<sup>r</sup>**

**12.** In the Child Protection (Alderney) Law, 1953 –

- (a) in section 6, for "be committed to the care of a relative of the child or some other fit person or institution, named by the Court (such relative, person or institution being willing to undertake the care) until the child attains the age of sixteen years, or for any shorter period", substitute "make –
  - (i) a residence order, or
  - (ii) a community parenting order,

as if the proceedings under this Law were family proceedings for the purposes of the Children (Guernsey and Alderney) Law, 2008",

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<sup>r</sup> Ordres en Conseil Vol. XV, p. 413.

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- (b) in section 7(1), for "A person or institution to whose care a child has been committed by an order under section six of this Law shall", substitute "A person in whose favour a residence order has been made, or the Department where a community parenting order has been made, in the circumstances described in the said section six, shall",<sup>1</sup>
  
- (c) in section 7(2), for paragraphs (a) and (b) substitute –
  - "(a) knowingly assists or induces, directly or indirectly, a child to escape –
    - (i) from a person in whose favour a residence order has been made in the circumstances described in the said section six, or
    - (ii) the Department where a community parenting order has been made in the circumstances described in the said section six, or
  - (b) knowingly harbours or conceals or prevents from returning to that person or the Department, a child who has escaped, or knowingly assists in so doing,"<sup>2</sup>
  
- (d) for section 7(4), substitute the following subsection –

"(4) An order may be made under the provisions of the last preceding subsection on the application of any person in whose favour a residence order has been made in the circumstances described in the said section six, or subsequently.", and

- (e) in section 7(6), for the words "Where an order under the said section six to commit a child to the care of some person is made" substitute "Where a residence order is made, in the circumstances described in the said section six,".

**Adoption (Guernsey) Law, 1960<sup>s</sup>**

**13.** In the Adoption (Guernsey) Law, 1960 –

- (a) for section 5(3), substitute the following subsection –

"(3) The reference in paragraph (a) of subsection (1) of this section to a parent of an infant does not include a reference to any person other than a father or mother who has parental responsibility in respect of that infant under the Children (Guernsey and Alderney) Law 2008.", and

- (b) for section 14(3), substitute the following subsection –

"(3) Where an adoption order is made in respect of an infant who is the subject of any order granting parental responsibility under the Children (Guernsey and Alderney) Law 2008, the latter order shall cease to have effect.".

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<sup>s</sup> Ordres en Conseil Vol. XVIII, p. 192; Vol. XXI, p. 34 and Vol. XXIII, p. 238 and Order in Council No. VIII of 1997; No. XII of 2000 and No. III of 2001.

**Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964<sup>t</sup>**

**14.** In the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964 –

- (a) in section 3(1)(d) –
  - (i) for "where the legal custody of any children of the marriage between the applicant and her husband has been committed to the applicant by the order" substitute "where the Court has made an order under section 17 of the Children (Guernsey and Alderney) Law, 2008 (referred to in this paragraph as a "**section 17 order**")", and
  - (ii) for "such child" substitute "child referred to in the section 17 order",
- (b) sections 3(1)(b), 5(b), 13(3) and (4) and 17 are repealed,
- (c) in section 13(2), for "for the time being has custody of the child", substitute "has parental responsibility under the Children (Guernsey and Alderney) Law 2008 in respect of the child", and
- (d) in section 18 –
  - (i) in subsection (4), for "the custody of the child for the time being", substitute "parental

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<sup>t</sup> Ordres en Conseil Vol. XIX, p. 241 and Vol. XXIV, p. 150.

responsibility under the Children (Guernsey and Alderney) Law 2008 in respect of the child", and

- (ii) in subsection (6), for "the custody of the child", substitute "parental responsibility under the Children (Guernsey and Alderney) Law 2008 in respect of the child".

**Children and Young Persons (Guernsey) Law, 1967<sup>u</sup>**

15. In the Children and Young Persons (Guernsey) Law, 1967 –

- (a) sections 2 to 6, 7(1) and (2), 8(1) to (4) and (6), 10, 11(1) to (6), 12, 14, 16, 20 to 22, 23(2), 24, 26, 27, 28(4)(a) and (b), (9), (10) and (11)(a) and (c), 30 and 34 are repealed,
- (b) sections 1, 7(3) to (6), 8(5), 9, 11(7), 13, 15, 17, 18, 19, 28(1) to (3), (5) to (9) and (12), 29, 31, and 32 are repealed in respect of the islands of Guernsey, Alderney, Herm and Jethou,
- (c) section 33 is repealed in respect of the islands of Guernsey, Alderney, Herm and Jethou,
- (d) for section 7(4)(b), substitute –

"(b) sections 11(e) and (f) of the Family Allowances

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<sup>u</sup> Ordres en Conseil Vol. XXI, p. 34; Vol. XXIII, pp. 3 and 238; Vol. XXIX, p. 124; Vol. XXXI, p. 326 and Vol. XXXIII, p. 465; Order in Council No. XXIX of 1997 and No. III of 2001.

(Guernsey) Law, 1950 shall not have effect in relation to the child or young person.",

- (e) in section 23(1) for "the next succeeding subsection" substitute "section 11(1) of the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008 or are brought under the Children (Guernsey and Alderney) Law, 2008", and
- (f) in section 23(3) –
  - (i) for the words "the last preceding subsection", substitute "subsection (1)", and
  - (ii) omit ", with the necessary modifications,".

**Education (Guernsey) Law, 1970<sup>v</sup>.**

**16.** In the Education (Guernsey) Law, 1970 –

- (a) in section 1(1), for the definition of "parent", substitute –

""**parent**"" means a person who has parental responsibility in respect of the child or young person in question," and

- (b) sections 21(2) to (7) and 22 are repealed.

**States Children Board and Public Assistance (Amendment) (Guernsey) Law,**

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<sup>v</sup> Ordres en Conseil Vol. XXII, p. 318 – there are amendments not relevant.

**1970<sup>w</sup>**

17. In the States Children Board and Public Assistance (Amendment) (Guernsey) Law, 1970, in the First Schedule, omit –

- (a) "The Law entitled "Loi ayant rapport à l'Asile des Enfants" registered on the twenty-fourth day of November, nineteen hundred and twenty-eight.", and
- (b) "The Children and Young Persons (Guernsey) Law, 1967."

**Children and Young Persons (Amendment) (Guernsey) Law, 1971<sup>x</sup>**

18. The Children and Young Persons (Amendment) (Guernsey) Law, 1971 is repealed.

**[Income Support (Guernsey) Law, 1971]<sup>y</sup>**

19. In the [Income Support (Guernsey) Law, 1971] –

- (a) in sections 19(4) and (6), immediately after "a person appointed to have custody of the child", insert "or a person having a relevant order ", and
- (b) immediately after section 19(6) insert the following subsection

"(7) For the purposes of subsections (4) and (6), "relevant

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<sup>w</sup> Ordres en Conseil Vol. XXII, p. 521 and Vol. XXXII, p. 155.

<sup>x</sup> Ordres en Conseil Vol. XXIII, p. 3.

<sup>y</sup> Ordres en Conseil Vol. XXIII, p. 26 and Vol. XXVI, p. 292; Order in Council No. VI of 1999; Recueil d'Ordonnances Tome XXIV, p. 468; Tome XXX, p. 25.

order" means an order made under section 17 of the Children (Guernsey and Alderney) Law 2008."

**Child Protection (Guernsey) Law, 1972<sup>Z</sup>.**

20. In the Child Protection (Guernsey) Law, 1972 –

(a) in section 1(1), the definition of "supervision order" is repealed,

(b) in section 15(6) –

(i) for paragraph (a), substitute the following paragraph –

"(a) there has been made against him an order under –

(i) Part II of this Law removing a child from his care,

(ii) section 15(5) refusing his registration under Part III of this Law,

(iii) section 19 cancelling his registration under Part III of this Law or the registration under that Part of any premises occupied by

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<sup>Z</sup> Ordres en Conseil Vol. XXIII, p. 238 and Vol. XXXVII, p. 45 and Order in Council No. III of 2001.

him,

- (iv) the Children and Young Persons (Guernsey) Law, 1967, by virtue of which a child was removed from his care, or
  - (v) the Children (Guernsey and Alderney) Law, 2008;", and
- (ii) for paragraph (b), substitute the following paragraph –

"(b) he has been convicted of an offence specified in the First Schedule to the Children and Young Persons (Guernsey) Law, 1967, in respect of a child or has been placed on probation or discharged conditionally for any such offence;"

**Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978<sup>aa</sup>.**

21. In the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(5), Parts II and III (save sections 24, 25 and 26) and the Schedule are repealed.

**Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law,**

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<sup>aa</sup> Ordres en Conseil Vol. XXVI, p. 264 and Vol. XXXI, p. 171.

**1979<sup>bb</sup>**

22. In the Domicil and Matrimonial Causes (Amendment) (Bailiwick of Guernsey) Law, 1979 –

- (a) section 1(g) is repealed, and
- (b) in paragraph 10(1) of the Schedule, in the definition of "relevant order", items (a) and (c) are repealed.

**Education (Amendment) (Guernsey) Law, 1987<sup>cc</sup>**

23. Paragraph 5 of the Third Schedule to the Education (Amendment) (Guernsey) Law, 1987 is repealed.

**Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987<sup>dd</sup>**

24. In section 9 of the Law Reform (Miscellaneous Provisions) (Guernsey) Law, 1987, immediately after the words "mother, father or guardian", insert "or other person who has parental responsibility in respect".

**Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988<sup>ee</sup>**

25. In the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 –

- (a) sections 7 to 9 and 11 to 14 are repealed,
- (b) in section 10(1), for "section 7(1)(i) in respect of the

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**bb** Ordres en Conseil Vol. XXVII, p. 99 and Vol. XXXI, p. 171.

**cc** Ordres en Conseil Vol. XXX, p. 179.

**dd** Ordres en Conseil Vol. XXX, p. 145 and Order in Council No. VIII of 1996.

**ee** Ordres en Conseil Vol. XXXI, p. 171 and Vol. XXXIV, p. 129, Order in Council No. XXIV of 1994 and No. I of 1995.

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custody" of a child" substitute "section 17 of the Children (Guernsey and Alderney) Law 2008 in respect of a child, or any order varying such an order,"

- (c) in section 10(2), for "an order under section 9(1) committing the care of a child to the Children Board" substitute "a community parenting order under the Children (Guernsey and Alderney) Law 2008",
- (d) in section 18(1), omit "or has made an interim custody order within the meaning of subsection (2) (other than an interim custody order in respect of an illegitimate child on an application under section 7(1)(a)),"
- (e) section 18(2) is repealed,
- (f) in section 18(4), omit "or an interim custody order",
- (g) in section 18(5), omit "or interim custody order",
- (h) in section 20, subsections (1), (2), (3) and (4) are repealed,
- (i) in section 21, subsection (1)(c) is repealed,
- (j) in section 23(1), omit "or interim custody order",
- (k) in section 23(2), omit –
  - (i) "25," and

- (ii) "or interim custody order",
- (l) in section 30 –
  - (i) in subsection (2), omit "and interim custody orders",
  - (ii) subsection (4) is repealed, and
  - (iii) in subsection (5) –
    - (A) omit "12(2), 13(3)," and "25," and
    - (B) immediately after "20", insert "(5)",
- (m) in section 31 –
  - (i) subsections (2) and (7) are repealed, and
  - (ii) in subsection (3), omit "or (2)",
- (n) in section 35, the definition of "interim custody order" is repealed, and
- (o) in Schedule 1, the provisions relating to the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 are repealed.

**The Guardianship of Minors (Alderney) Law, 1990<sup>ff</sup>**

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<sup>ff</sup> Ordres en Conseil Vol. XXXII, p. 177.

26. In the Guardianship of Minors (Alderney) Law, 1990 –
- (a) sections 1 to 12 are repealed,
  - (b) in section 13(1) –
    - (i) omit "in relation to the custody or upbringing of a minor who is illegitimate, and", and
    - (ii) for "such minor" (where first appearing in section 13(1)) substitute "a minor who is illegitimate",
  - (c) sections 13(3), (4) and (6) are repealed, and
  - (d) in section 17(1), the definition of "maintenance" is repealed.

**Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992<sup>gg</sup>.**

27. In the Domestic Proceedings and Magistrate's Court (Amendment) (Guernsey) Law, 1992, sections 1(d) and (f) are repealed.

**Housing (Control of Occupation) (Guernsey) Law, 1994.**

28. In the Housing (Control of Occupation) (Guernsey) Law, 1994 –
- (a) in section 71(1) after the definition of "owner" insert the following definition –

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<sup>gg</sup> Ordres en Conseil Vol. XXXIV, p. 129.

""a placement agency" has the meaning given by section 78(1) of the Children (Guernsey and Alderney) Law, 2008;" and

(b) immediately after section 71(4)(b) insert the following paragraph –

"(c) a person who is described in section 10(2)(d), (e), (f) or (k) or deemed to be described in section 10(2)(d) or (e) by virtue of section 10(2)(m) shall be deemed to be ordinarily resident in Guernsey during any period throughout the whole of which he is not resident in Guernsey as a result of arrangements made by a placement agency in accordance with the provisions of the Children (Guernsey and Alderney) Law, 2008 and that person becomes ordinarily resident in Guernsey within a period of six months immediately following the date on which any such arrangements come to an end without being replaced by any further similar arrangements for placement outside Guernsey."

**Children and Young Persons (Amendment) (Guernsey) Law, 1997<sup>hh</sup>.**

29. The Children and Young Persons (Amendment) (Guernsey) Law, 1997 is repealed.

**Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997<sup>ii</sup>.**

30. The Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997 is repealed.

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<sup>hh</sup> Order in Council No. XXIX of 1997.

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

**Children and Young Persons (Amendment) (Guernsey) Law, 2000<sup>jj</sup>.**

31. Section 1 of the Children and Young Persons (Amendment) (Guernsey) Law, 2000 is repealed.

**Tattooing, Piercing, Acupuncture and Electrolysis (Guernsey and Alderney) Law, 2000<sup>kk</sup>.**

32. In the Tattooing, Piercing, Acupuncture and Electrolysis (Guernsey and Alderney) Law, 2000, in section 8(3)(b), immediately after "parent or guardian of", insert ", or other person who has parental responsibility in respect of,".

PART II  
ORDINANCES

**Ordonnance relative à la Vaccination des Enfants 1869<sup>ll</sup>.**

1. The Ordonnance relative à la Vaccination des Enfants 1869 is repealed.

**Ordonnance autorisant la nomination par le Magistrat d'un Tuteur spécial à soutenir ou défendre Procès relatif à l'entretien d'un Enfant Illégitime, 1930<sup>mm</sup>.**

2. The Ordonnance autorisant la nomination par le Magistrat d'un Tuteur spécial à soutenir ou défendre Procès relatif à l'entretien d'un Enfant Illégitime, 1930 is repealed.

**Children and Young Persons (Regulation of Boarding Out) Ordinance, 1968<sup>nn</sup>.**

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- jj** Order in Council No. III of 2001.  
**kk** Order in Council, No. V of 2000.  
**ll** Recueil d'Ordonnances Tome IV, p. 97.  
**mm** Recueil d'Ordonnances Tome VIII, p. 62.  
**nn** Recueil d'Ordonnances Tome XV, p. 328.

3. The Children and Young Persons (Regulation of Boarding Out) Ordinance, 1968 is repealed.

**Children and Young Persons (Secure Accommodation) Ordinance, 1997<sup>oo</sup>.**

4. The Children and Young Persons (Secure Accommodation) Ordinance, 1997 is repealed.

PART III  
OTHER INSTRUMENTS

**The Children and Young Persons (Forms) Rules, 1968<sup>pp</sup>.**

1. The Children and Young Persons (Forms) Rules, 1968 are revoked.

**School Attendance Order (Guernsey) Regulations, 1970<sup>qq</sup>.**

2. In the Schedule to the School Attendance Order (Guernsey) Regulations, 1970, for the footnote substitute the following footnote –

"(\* In this Order the expression "parent" means a person who has parental responsibility in respect of the child.)".

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**NOTES**

*In Schedule 1, the words in square brackets in paragraph 19 were substituted by the Income Support (Guernsey) Law, 2017, section 1(2), Schedule 1, paragraph 1, with effect from 6th July, 2018.*

*The Housing (Control of Occupation) (Guernsey) Law, 1994 has since been repealed by the Population Management (Guernsey) Law, 2016, section 85, Schedule 3, with effect from 3rd April, 2017, subject to the transitional and*

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<sup>oo</sup> Ordinance No. XXIII of 1997.

<sup>pp</sup> Order of the Royal Court No. II of 1968.

<sup>qq</sup> Guernsey Statutory Instrument No. 35 of 1970.

*saving provisions in Part 4 of the 2017 Law.*

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SCHEDULE 2

Section 4

SAVINGS AND TRANSITIONAL PROVISIONS

PART I

PUBLIC LAW ORDERS

**Special care orders.**

1. A special care order which is in force immediately before the commencement of the Law shall, on the commencement of the Law, become a community parenting order with leave to place the child out of the jurisdiction.

**Place of safety, fit person, supervision and secure accommodation orders.**

2. A place of safety order, fit person order, supervision order or secure accommodation order which is in force immediately before the commencement of the Law shall, on the commencement of the Law, remain in force and continue to have effect as if –

- (a) in the case of a place of safety order, fit person order (subject to paragraph 5) and supervision order, the provisions of the Children and Young Persons (Guernsey) Law, 1967 referred to in paragraph 15 of Part I of Schedule 1 were in force and continued to have effect, and
- (b) in the case of a secure accommodation order –
  - (i) the Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997, and
  - (ii) the Children and Young Persons (Secure Accommodation) Ordinance, 1997,

were in force and continued to have effect,

until the date upon which the order would have expired but for the repeal of those provisions and those enactments under section 3, unless the order is discharged or revoked prior to that date.

**Discharge etc. of supervision orders saved under paragraph 2.**

3. Where a supervision order to which paragraph 2 relates (other than a supervision order made in criminal proceedings) is discharged or revoked –

- (a) the child's case may be referred to the Children's Convenor, or
- (b) a relevant court may make an order under Part IV of the Law.

**Applications pending under section 3 of Children and Young Persons (Guernsey) Law, 1967.**

4. (1) Where an application for any order under section 3 of the Children and Young Persons (Guernsey) Law, 1967 is pending on the commencement of the Law, the relevant court –

- (a) within 2 months of the commencement of the Law or, where not reasonably practicable as soon as possible thereafter, shall –
  - (i) consider representations as to whether the conditions and criteria set out, or referred to, in section 49 of the Law are met, and

- (ii) make such order, or take such other action, under the Law as it thinks fit, and
- (b) subject to subparagraph (2) may, where it thinks fit, make any interim order that the court could have made under the Children and Young Persons (Guernsey) Law, 1967 and any order so made shall have effect as if the provisions of that Law were in force and continued to have effect, irrespective of their repeal under section 3 of this Ordinance.

(2) The power under subparagraph (1)(b) shall cease to be exercisable, and any orders made in exercise of the power shall cease to have effect, on 30 June 2010.

**Fit person orders saved under paragraph 2.**

5. (1) Where a fit person order to which paragraph 2 relates has been made and remains in force in respect of a child –

- (a) in favour of the [Committee], the [Committee] shall have parental responsibility in respect of the child as if the child were subject to a community parenting order, or
- (b) in favour of an individual, that individual shall have parental responsibility in respect of the child to the same extent as the [Committee] would have if the child were subject to a community parenting order.

(2) An application to discharge or revoke an order referred to in subparagraph (1)(a) shall be made in the same manner as an application to discharge a

community parenting order under section 52(2) of the Law.

(3) The relevant court may, upon review, and as an alternative to the discharge or revocation of, an order referred to in subparagraph (1)(a) –

- (a) convert the order into a community parenting order,
- (b) make any other order which it may make under the Law, or
- (c) refer the matter to the Children's Convenor.

**Conditions attached to fit person order saved under paragraph 2.**

6. A condition which has been attached to a fit person order to which paragraph 2 relates may be discharged, revoked or varied by a relevant court.

**Orders under sections 8(1) and 9(1) of the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988.**

7. (1) An order under section 8(1) of the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 which is in force immediately before the commencement of the Law shall, on the commencement of the Law, remain in force and continue to have effect as if –

- (a) the Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997, and
- (b) the Children and Young Persons (Secure Accommodation) Ordinance, 1997,

were in force and continued to have effect, until the date upon which the order would

have expired but for the repeal of those enactments under section 3, unless the order is discharged or revoked prior to that date.

(2) Where an order to which subparagraph (1) relates is discharged or revoked –

(a) the child's case may be referred to the Children's Convenor, or

(b) a relevant court may make an order under Part IV of the Law

(3) An order under section 9(1) of the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 which is in force immediately before the commencement of the Law shall, on the commencement of the Law, become a community parenting order.

**Interpretation of this Part.**

8. For the purposes of this Part –

**"community parenting order"** has the meaning given by section 48 of the Law,

**"fit person order"** means an order made under section 3(3)(b) of the Children and Young Persons (Guernsey) Law, 1967 and, for the avoidance of doubt, includes any interim order committing a child to the care of any fit person made under section 24 of that Law,

**"place of safety order"** means a direction given under section 3(1)(b) of the Children and Young Persons (Guernsey) Law, 1967,

**"secure accommodation order"** means any order made under the Children and Young Persons (Secure Accommodation) (Guernsey) Law, 1997 authorising a person to be kept in secure accommodation,

**"special care order"** has the meaning given by section 1(1) of the Children and Young Persons (Guernsey) Law, 1967, and

**"supervision order"** mean an order made under section 3(3)(d) of the Children and Young Persons (Guernsey) Law, 1967.

## PART II

### PRIVATE LAW ORDERS

#### **Private law orders in force upon commencement of Law.**

1. A private law order (including an interim order) relating to a child, which is in force immediately before the commencement of the Law shall, on the commencement of the Law, remain in force and continue to have effect –

- (a) subject to the provisions of this Part, and
- (b) as if, where the order is made under an enactment repealed or amended under this Ordinance, the enactment so repealed or amended were in force and continued to have effect,

until the date upon which the order would, where the order is made under an enactment, have expired but for the repeal or amendment of the enactment under this Ordinance, unless the order is varied, discharged or revoked by the relevant court prior to that date.

#### **Parental responsibility and orders under matrimonial laws saved under**

**paragraph 1.**

2. (1) Where an order to which paragraph 1 relates has been made under the matrimonial laws and the mother and father of any child to which the order relates –

- (a) were married to one another at the time of the child's birth,
- (b) have subsequently married each other, or
- (c) subsequently marry each other,

then both mother and father shall have parental responsibility in respect of that child.

(2) Any application to vary, discharge or revoke an order referred to in subparagraph (1) shall be made in the same manner as an application to vary or discharge a section 17 order.

**Orders for access under the matrimonial laws saved under paragraph 1.**

3. Where an order for access to a child to which paragraph 1 relates has been made under the matrimonial laws, the person in whose favour the order has been made –

- (a) may apply for a section 17 order in respect of the child, as if that person were a person in whose favour a contact order relating to that child had been made, and
- (b) shall, for the purposes of section 50(1)(b) of the Law, be treated as if he were a person in whose favour a contract order, in respect of the child, is in force.

**Parental responsibility where order made to person other than a parent under enactment other than guardianship laws.**

4. Where an order to which paragraph 1 relates has been made, under any enactment other than the guardianship laws, giving a person custody, or care and control, of a child of whom that person is not a parent, that person, in addition to the parents of the child, shall have parental responsibility in respect of the child in question.

**Parental responsibility of tuteurs and guardians.**

5. (1) A person who, upon the commencement of the Law, holds appointment as tuteur of a child with full powers under the customary law, shall have parental responsibility in respect of that child.

(2) A guardian, whose appointment as such is effective upon the commencement of the Law, shall have parental responsibility in respect of the child to whom the appointment relates.

**Interpretation of this Part.**

6. For the purposes of this Part –

- (a) **"private law order"** means an order –
  - (i) in respect of access or custody made under the matrimonial laws,
  - (ii) in respect of access or guardianship, made under the guardianship laws,
  - (iii) giving a person custody, or care and control, of a child, or

- (iv) appointing a person as "tuteur" under the customary law,
- (b) **"the matrimonial laws"** means –
  - (i) the Matrimonial Causes (Guernsey) Law, 1939,
  - (ii) the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, and
  - (iii) the Separation, Marriage and Affiliation Proceedings (Alderney) Law, 1964,
- (c) **"the guardianship laws"** means –
  - (i) the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, and
  - (ii) the Guardianship of Minors (Alderney) Law, 1990, and
- (d) a "section 17 order" has the same meaning as under the Law.

PART III  
MISCELLANEOUS

Where immediately before the commencement of the Law, the Juvenile Court (as constituted in accordance with section 4 of the Juvenile Court (Guernsey) Law,

1989<sup>rr</sup>) has heard evidence in, or received an application concerning, a matter relating to a child, it may, notwithstanding the commencement of the Law, sit as so constituted to –

- (a) hear any further evidence, application or representation in that matter, and
- (b) make any order which may be made by the Juvenile Court under the Law.

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**NOTES**

*In Schedule 2, the word "Committee" in square brackets, wherever occurring, was 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.*

*The functions, rights and liabilities of the Health and Social Services Department ("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.*

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

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**1** For subsequent amendments, see the consolidated text of the Child Protection (Alderney) Law, 1953.

**2** For subsequent amendments, see the consolidated text of the Child Protection (Alderney) Law, 1953.