

Judgment 36/2005

**B v. B – Royal Court (Divorce File 5399) –
20 June, 2005**

Matrimonial cause – husband’s application for variation of an agreed order – increase of maintenance for child to be payable by wife – allowed in part (see also Judgment 12/2005).

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

Before John Russell Finch, Esquire, Lieutenant Bailiff

On the 20th day of June, 2005

Between:

B

Applicant

and

B

Respondent

IN THE MATTER OF the Applicant’s application of the 21st January, 2005 to vary the Agreed Order dated 8th June 1999 as varied by the Court on the 13th March 2002 and 4th July 2002;

WHEREAS on the 1st June 2005, the Lieutenant Bailiff, having heard the Applicant in person and Advocate A.M. Merrien, Counsel for the Respondent respectively, reserved Judgment;

THE LIEUTENANT BAILIFF this day issued written Judgment in the terms attached hereto, and DISMISSED the application but ORDERED that the Respondent shall pay an increase of £15 per week maintenance to [the child] which now becomes £45 per week.

AND THE COURT reserved costs.

C. S. WEETMAN
Her Majesty's Deputy Greffier

The Lieutenant Bailiff set out the legal position in paragraph 5 of his judgment: -

Legal Position

5. Though Guernsey courts will follow the English principles, see section 31(7) of the Matrimonial Causes Act, 1973. “First consideration” must be given to the child’s welfare. Although the requirement to have regard to all the circumstances dictates a complete review of all the relevant matters I consider that correct approach is as set out by District Judge Roger Bird in his “Ancillary Relief Handbook” (Fourth Edition) at para. 13.13:

“Having said that, it is inevitable that the Court will require some change in the circumstances before it varies an order; otherwise a dissatisfied litigant could apply repeatedly for variation as a method of appeal or challenge. The starting point must be that the Order was correctly made. In a case involving variation of a consent order it was said that “the court should not adopt an approach which differs radically from the approach taken by the parties themselves in assessing quantum of maintenance when the original order was made”; the same could be said of the approach adopted by the court in a contested case.”