



Guardianship Act 1973

1973 CHAPTER 29

An Act to amend the law of England and Wales as to the guardianship of minors so as to make the rights of a mother equal with those of a father, and so as to make further provision with respect to applications and orders under section 9 of the Guardianship of Minors Act 1971 and with respect to the powers of a guardian under that Act in relation to the minor's property, and to amend section 4(2) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960; to make provision in relation to like matters for Scotland; and for purposes connected therewith. [5th July 1973]

Extent Information

- E1** Act: Pt. I does not extend to Scotland or to Northern Ireland; Pt. II shall not extend to England and Wales or to Northern Ireland; for exception see s. 15(2)

Textual Amendments

- F1** Act repealed (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108, Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2).

Modifications etc. (not altering text)

- C1** Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), s. 3
C2 For "custody" wherever occurring there is substituted (E.W.) "legal custody" by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22, SIF 49:3), s. 36(2)

Commencement Information

- I1** Act not in force at Royal Assent see s. 15(3); Act wholly in force at 08. 05. 1974

PART I

ENGLAND AND WALES

Status: Point in time view as at 14/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996). (See end of Document for details)

Textual Amendments

- F55** S. 9(2)(a) repealed by [Legal Aid Act 1974 \(c. 4\), s. 42\(1\) Sch. 5 Pt. I](#)
- F56** S. 9(2)(b) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 154, Sch. 9](#)
- F57** S. 9(2)(c) repealed by [Supreme Court Act 1981 \(c. 54 SIF:37\), s. 152\(4\), Sch. 7](#)

Modifications etc. (not altering text)

- C22** Pt. I (ss. 1–9) amended by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\), ss. 2\(1\)\(d\), 34\(2\)\(5\)](#)
- C23** The text of s. 2(7), 9(3), 14, Sch. 1, 3, 5 paras. 4–7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M11** 1971 c. 3
- M12** 1951 c. 65
- M13** 1950 c. 37
- M14** 1971 c. 32

PART II

SCOTLAND

10 ^{F58}

Textual Amendments

- F58** S. 10 repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\), ss. 10\(2\), 11\(4\), Sch. 2](#)

11 Jurisdiction and orders relating to care and custody of children.

- (1) [^{F59}where an application relating to the custody of a child, other than an application to which Part II of the ^{M15}Matrimonial Proceedings (Children) Act 1958 applies, is made to a Court]—

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- (a) if it appears to the court that there are exceptional circumstances making it impracticable or undesirable for the child to be entrusted to either of the parents or to any other individual, the court may commit the care of the child to a specified local authority;
- (b) if by an order made on that application either parent or any other person (other than a local authority) is given the custody of the child, but it appears to the court that there are exceptional circumstances making it desirable that the child should be under the supervision of a local authority, the court may order that the child shall be under the supervision of a specified local authority, subject to any directions given by the court;

but any order made by virtue of the above paragraphs shall cease to have effect when the child attains the age of sixteen.

- (2) While an order made by virtue of this section committing the care of a child to a local authority is in force with respect to any child the child shall continue in the care of the local authority notwithstanding any claim by a parent or other person.
- (3) Where the court makes an order by virtue of subsection (1)(a) above committing the care of a child to a local authority, the court may make a further order requiring the payment by either parent to that authority while it has the care of the child of such weekly or other periodical sum towards the maintenance of the child as the court thinks reasonable having regard to the means of that parent.
- (4) Before making an order by virtue of subsection (1)(a) above, the court shall hear any representations from the local authority, including any representations as to the making of an order under subsection (3) above for payments to the authority.
- (5) On the making of an order by virtue of this section committing the care of a child to a local authority Part II of the ^{M16}Social Work (Scotland) Act 1968 (which relates to the treatment of children in care of local authorities) shall, subject to the provisions of this section, apply as if the child had been received by the local authority into their care under section 15 of that Act, so however that—
 - (a) the exercise by the local authority of their powers under or by virtue of sections 20 to 22 of that Act shall be subject to any directions given by the court; and
 - (b) section 23 of that Act (which relates to arrangements for the emigration of a child under the care of a local authority) shall not apply.

(6) F60

Textual Amendments

F59 Words substituted by Children Act 1975 (c. 72 SIF 49:10), s. 48(3)

F60 S. 11(6) repealed by Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9, SIF 49:8), ss. 10(2), 11(4), Sch. 2

Modifications etc. (not altering text)

C24 S. 11 extended by Children Act 1975 (c. 72, SIF 49:10), s. 53(3)

C25 S. 11(2)(4)(5) applied by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), s. 26(3)

Marginal Citations

M15 1958 c. 40 (49:3.)

M16 1968 c. 49.

Status: Point in time view as at 14/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996). (See end of Document for details)

12 Provisions supplementary to section 11.

- (1) Any order made by virtue of section 11 above may from time to time be varied or may be discharged by a subsequent order on the application of—
- (a) either parent, or
 - (b) (after the death of either parent) any guardian . . . ^{F61}, or
 - (c) any other person having custody of the child, or
 - (d) the specified local authority having the care or supervision of the child.
- (2) [^{F62}Where any application, other than one to which Part II of the ^{M17}Matrimonial Proceedings (Children) Act 1958 applies, is made to a court, for custody of a child or for the variation or discharge of any order (including an order made by virtue of section 11 above) relating to the custody of a child], the court shall have power to appoint a specified local authority or an individual not being an officer of the local authority to investigate and report to the court on all the circumstances of the child and on the proposed arrangements for the care and upbringing of the child.
- (b) If on consideration of a report furnished in pursuance of this subsection the court, either ex proprio motu or on the application of any person concerned, thinks it expedient to do so, it may require the person who furnished the report to appear and be examined on oath regarding any matter dealt with in the report, and such person may be examined or cross-examined accordingly.
 - (c) Any expenses incurred in connection with the preparation of a report by a local authority or other person appointed under this subsection shall form part of the expenses of the action and be defrayed by such party to the action as the court may direct, and the court may certify the amount of the expenses so incurred.
- (3) Each parent or guardian of a child for the time being in the care of a local authority by virtue of an order under section 11(1)(a) above shall give notice to the authority of any change of address of that parent or guardian and any person who without reasonable excuse fails to comply with this subsection shall be liable on summary conviction to a fine not exceeding £10.

Textual Amendments

F61 Words repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 10(2), 11(4), [Sch. 2](#)

F62 Words substituted by [Children Act 1975 \(c. 72, SIF 49:10\)](#), s. 48(4)

Marginal Citations

M17 [1958 c. 40 \(49:3.\)](#)

13 Interpretation of Part II.

- (1) In this Part of this Act—
- “child” means a child under sixteen years of age;
^{F63}
. . .
- “specified local authority” means a local authority within the meaning of the ^{M18}Social Work (Scotland) Act 1968.

Status: Point in time view as at 14/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996). (See end of Document for details)

Textual Amendments

F63 Definition in s. 13(1) repealed (S.) (25.09.1991) by [Age of Legal Capacity \(Scotland\) Act 1991 \(c. 50, SIF 49:8\)](#), ss. 10(2), 11(2), [Sch. 2](#) (with s. 1(3)).

Marginal Citations

M18 1968 c. 49.

14 Consequential amendments.

The enactments specified in Schedule 5 of this Act shall have effect subject to the amendments set out in the Schedule, being amendments consequential on the foregoing provisions of this Part of this Act.

Modifications etc. (not altering text)

C26 The text of s. 2(7), 9(3), 14, Sch. 1, 3, 5 paras. 4–7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART III

GENERAL

15 Short title, citation, extent and commencement.

- (1) This Act may be cited as the Guardianship Act 1973; and—
 - (a) Part I of this Act and the ^{M19}Guardianship of Minors Act 1971 may be cited together as the Guardianship of Minors Acts 1971 and 1973; and
 - (b) ^{F64}
- (2) Part I of this Act shall not extend to Scotland or to Northern Ireland, and Part II shall not extend to England and Wales or to Northern Ireland, except that each Part shall extend throughout the United Kingdom in so far as it amends section 16 of the ^{M20}Maintenance Orders Act 1950.
- (3) This Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and different days may be appointed for the coming into force of different provisions.

Textual Amendments

F64 [S. 15\(1\)\(b\)](#) repealed (S.) by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 10(2), 11(4), [Sch. 2](#)

Marginal Citations

M19 1971 c. 3.

M20 1950 c. 37.

Status: Point in time view as at 14/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996). (See end of Document for details)

SCHEDULES

SCHEDULE 1 Section 1.

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SCHEDULE 2 Section 2.

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SCHEDULE 3 Section 9.

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^{F65}~~F65~~ SCHEDULE 4

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Textual Amendments

F65 Sch. 4 repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 10(2), 11(4), [Sch. 2](#)

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F65

SCHEDULE 5 Section 14.

CONSEQUENTIAL AMENDMENTS RELATING TO SCOTLAND

F66

1—3.

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Textual Amendments

F66 Sch. 5 paras. 1–3 repealed by [Law Reform \(Parent and Child\) \(Scotland\) Act 1986 \(c. 9, SIF 49:8\)](#), ss. 10(2), 11(4), [Sch. 2](#)

Status: Point in time view as at 14/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996). (See end of Document for details)

- 4 In section 16(2)(b) of the ^{M24}Maintenance Orders Act 1950, after sub-paragraph (vi) there shall be inserted the following sub-paragraph—
- “(vii) an order for the payment of weekly or other periodical sums under subsection (3) of section 11 of the Guardianship Act 1973;”.

Modifications etc. (not altering text)

C30 The text of s. 2(7), 9(3), 14, Sch. 1, 3, 5 paras. 4–7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M24 1950 c. 37.

- 5 In section 8(1)(d) of the ^{M25}Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, after “1925” there shall be inserted the words “ or under subsection (3) of section 11 of the Guardianship Act 1973 ”.

Modifications etc. (not altering text)

C31 The text of s. 2(7), 9(3), 14, Sch. 1, 3, 5 paras. 4–7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M25 1951 c. 65.

- 6 In section 8(1)(d) of the ^{M26}Law Reform (Miscellaneous Provisions) (Scotland) Act 1966, after “1958” there shall be inserted the words “ or by virtue of Part II of the Guardianship Act 1973 ”.

Modifications etc. (not altering text)

C32 The text of s. 2(7), 9(3), 14, Sch. 1, 3, 5 paras. 4–7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M26 1966 c. 19.

- 7 In section 2(2) of the ^{M27}Social Work (Scotland) Act 1968, in sub-paragraph (c), at the end there shall be added “ and sections 11 and 12 of the Guardianship Act 1973 ”.

Status: Point in time view as at 14/10/1991.

Changes to legislation: There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996). (See end of Document for details)

Modifications etc. (not altering text)

C33 The text of s. 2(7), 9(3), 14, Sch. 1, 3, 5 paras. 4–7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M27 1968 c. 49.

Status:

Point in time view as at 14/10/1991.

Changes to legislation:

There are currently no known outstanding effects for the Guardianship Act 1973 (repealed 1.11.1996).