



# Children Act 1975

## 1975 CHAPTER 72

### PART IV

#### FURTHER AMENDMENTS OF LAW OF ENGLAND AND WALES

##### *Explanation of concepts*

#### **85 Parental rights and duties.**

- (1) In this Act, unless the context otherwise requires, “the parental rights and duties” means as respects a particular child (whether legitimate or not), all the rights and duties which by law the mother and father have in relation to a legitimate child and his property; and references to a parental right or duty shall be construed accordingly and shall include a right of access and any other element included in a right or duty.
- (2) Subject to section 1(2) of the <sup>M1</sup>Guardianship Act 1973 [<sup>F1</sup>(which relates to separation agreements between husband and wife)], a person cannot surrender or transfer to another any parental right or duty he has as respects a child.
- (3) Where two or more persons have a parental right or duty jointly, any one of them may exercise or perform it in any manner without the other or others if the other or, as the case may be, one or more of the others have not signified disapproval of its exercise or performance in that manner.
- (4) From the death of a person who has a parental right or duty jointly with one other person, or jointly with two or more other persons, that other person has the right or duty exclusively or, as the case may be, those other persons have it jointly.
- (5) Where subsection (4) does not apply on the death of a person who has a parental right or duty, that right or duty lapses, but without prejudice to its acquisition by another person at any time under any enactment.
- (6) Subsections (4) and (5) apply in relation to the dissolution of a body corporate as they apply in relation to the death of an individual.

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*Changes to legislation: There are currently no known outstanding effects for the Children Act 1975, Section 85. (See end of Document for details)*

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(7) Except as otherwise provided by or under any enactment, while the mother of an illegitimate child is living she has the parental rights and duties exclusively.

**Textual Amendments**

**F1** Words repealed (E.W.) by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(4), [Sch. 4](#)

**Marginal Citations**

**M1** [1973 c. 29\(49:10\)](#).

**Changes to legislation:**

There are currently no known outstanding effects for the Children Act 1975, Section 85.