

SCHEDULES

SCHEDULE 1

Section 1.

PROVISIONS SUBSTITUTED FOR SEXUAL OFFENCES ACT 1956 S. 38

- (1) On a person's conviction of an offence under section 10 of this Act against a girl under the age of eighteen, or of an offence under section 11 of this Act against a boy under that age, or of attempting to commit such an offence, the court may by order divest that person of all authority over the girl or boy.
- (2) An order divesting a person of authority over a girl or boy under the foregoing subsection may, if that person is the guardian of the girl or boy, remove that person from the guardianship.
- (3) An order under this section may appoint a person to be the guardian of the girl or boy during his or her minority or any less period.
- (4) An order under this section may be varied from time to time or rescinded by the High Court and, if made on conviction of an offence against a girl or boy who is a defective, may, so far as it has effect for any of the purposes of the Mental Health Act 1959, be rescinded either before or after the girl or boy has attained the age of eighteen.

SCHEDULE 2

Section 2.

AMENDMENTS OF GUARDIANSHIP OF MINORS ACT 1971 SS. 9, 13, AND 16, AND AMENDED TEXT OF S. 9 AND S. 15(3)—(6)

PART I

AMENDMENTS

- 1 (1) Section 9 of the Guardianship of Minors Act 1971 is to be amended in accordance with sub-paragraphs (2) to (4) below.
- (2) In section 9(2) there shall be substituted—
 - (a) for the words "the mother", where they first occur, the words " any person (whether or not one of the parents)" ; and
 - (b) for the words " the father to pay to the mother " the words "payment to that person by the parent or either of the parents excluded from having that custody of " ; and
 - (c) for the words " the father ", where they last occur, the words " that parent".
- (3) At the end of section 9(3) there shall be added—

“Provided that, unless the court in making the order directs otherwise, paragraphs (a) and (b) above shall not apply to any provision of the order

giving the custody of the minor to a person other than one of the parents or made with respect to a minor of whom custody is so given”.

- (4) In section 9(4) the words "(in the case of an order under subsection (1))" shall be omitted, and at the end of section 9(4) there shall be added the words " or (before or after the death of either parent) on the application of any other person having the custody of the minor by virtue of an order under subsection (1) of this section ".
- 2 In section 13(1) of the Guardianship of Minors Act 1971 (which provides for the enforcement of orders of a magistrates' court committing to the applicant the legal custody of a minor) for the words " the applicant" there shall be substituted the words " any person " ; at the first place where the applicant is mentioned, and the words " the person given the custody " at the other two places ; and for the words " that person " there shall be substituted the words " the person so served.
- 3 (1) Section 15 of the Guardianship of Minors Act 1971 is to be amended in accordance with sub-paragraphs (2) to (4) below.
- (2) In section 15(4) there shall be substituted—
- (a) for the words " to the mother " where they first occur, the words " to a person resident in England or Wales " ; and
- (b) for the words "requiring the father to make payments to the mother " the words " requiring payments to be made " ; and
- (c) for the words " the father ", where they last occur, the words " one parent" and for the words " the mother", in the last two places where they occur, the words "the other parent".
- (3) In section 15(5) the words " in the case of proceedings by the mother " shall be omitted, and for the words " requiring the father to make payments to the mother " there shall be substituted the words " requiring payments to be made ".
- (4) In section 15(6) for the words " a woman " there shall be substituted the words " a person ",
and for the words " that subsection " there shall be substituted the words " that section ".
- 4 At the end of section 16 of the Guardianship of Minors Act 1971 there shall be added as subsection (5)—
- “(5) In relation to applications made to a magistrates' court under section 9 of this Act for the discharge or variation of an order giving the custody of a minor to a person other than one of the parents or made with respect to a minor of whom custody is so given, rules made under section 15 of the Justices of the Peace Act 1949 may make provision as to the persons who are to be made defendants on the application ; and if on any such application there are two or more defendants, the power of the court under section 55(1) of the Magistrates' Courts Act 1952 shall be deemed to include power, whatever adjudication the court makes on the complaint, to order any of the parties to pay the whole or part of the costs of all or any of the other parties.”

PART II

TEXT OF S. 9 AND S. 15(3) TO (6), AS AMENDED

Section 9, as amended

- “9 (1) The court may, on the application of the mother or father of a minor (who may apply without next friend), make such order regarding—
- (a) the custody of the minor ; and
 - (b) the right of access to the minor of his mother or father,
- as the court thinks fit having regard to the welfare of the minor and to the conduct and wishes of the mother and father.
- (2) Where the court makes an order under subsection (1) of this section giving the custody of the minor to any person (whether or not one of the parents), the court may make a further order requiring payment to that person by the parent or either of the parents excluded from having that custody of such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of that parent.
- (3) An order may be made under subsection (1) or (2) of this section notwithstanding that the parents of the minor are then residing together, but—
- (a) no such order shall be enforceable, and no liability thereunder shall accrue, while they are residing together; and
 - (b) any such order shall cease to have effect if for a period of three months after it is made they continue to reside together:

Provided that, unless the court in making the order directs otherwise, paragraphs (a) and (b) above shall not apply to any provision of the order giving the custody of the minor to a person other than one of the parents or made with respect to a minor of whom custody is so given.

- (4) An order under subsection (1) or (2) of this section may be varied or discharged by a subsequent order made on the application of either parent or after the death of either parent on the application of any guardian under this Act, or (before or after the death of either parent) on the application of any other person having the custody of the minor by virtue of an order under subsection (1) of this section.”

Section 15(3) to (6), as amended

- “(3) A county court or magistrates' court shall not have jurisdiction under this Act in any case where the respondent or any of the respondents resides in Scotland or Northern Ireland—
- (a) except in so far as such jurisdiction may be exercisable by virtue of the following provisions of this section; or
 - (b) unless a summons or other originating process can be served and is served on the respondent or, as the case may be, on the respondents in England or Wales.
- (4) An order under this Act giving the custody of a minor to a person resident in England or Wales, whether with or without an order requiring payments to be made towards the minor's maintenance, may be made, if one parent resides in Scotland or Northern Ireland and the other parent and the minor in England or Wales, by a magistrates' court having jurisdiction in the place in which the other parent resides.

Status: This is the original version (as it was originally enacted).

- (5) It is hereby declared that a magistrates' court has jurisdiction—
- (a) in proceedings under this Act by a person residing in Scotland or Northern Ireland against a person residing in England or Wales for an order relating to the custody of a minor (including an order requiring payments to be made towards the minor's maintenance);
 - (b) in proceedings by or against a person residing in Scotland or Northern Ireland for the revocation, revival or variation of any such order.
- (6) Where proceedings for an order under subsection (1) of section 9 of this Act relating to the custody of a minor are brought in a magistrates' court by a person residing in Scotland or Northern Ireland, the court shall have jurisdiction to make any order in respect of the minor under that section on the application of the respondent in the proceedings.”

SCHEDULE 3

Section 9.

REPEALS UNDER PART I OF THIS ACT

| Chapter | Short Title | Extent of Repeal |
|-----------------------|--------------------------------------|---|
| 12 Chas. 2. c. 24. | The Tenures Abolition Act 1660. | Section 9. |
| 36 & 37 Vict. c. 12. | The Custody of Infants Act 1873. | The preamble, and section 2. |
| 7 & 8 Eliz. 2. c. 72. | The Mental Health Act 1959. | Section 127(2). |
| 1969 c. 46. | The Family Law Reform Act 1969. | In Part I of Schedule 1 the entry relating to the Sexual Offences Act 1956 and that relating to the Mental Health Act 1959. |
| 1971 c. 3. | The Guardianship of Minors Act 1971. | In section 1 the words " or any right at common law possessed by the father ". Section 2. Section 8. In Schedule 1 the entry relating to the Legal Aid and Advice Act 1949 and that relating to the Magistrates' Courts Act 1952, and in the entry relating to the Administration of Justice Act 1970 the words from " for " where first occurring to " 1971 " where next occurring. |

SCHEDULE 4

Section 11.

AMENDMENTS OF GUARDIANSHIP OF INFANTS ACT 1925 S. 3, AND
OF MAINTENANCE ORDERS ACT 1950 S. 7, AND TEXTS AS AMENDED

PART I

Guardianship of Infants Act 1925, S. 3

- 1 (1) Section 3 of the Guardianship of Infants Act 1925 is to be amended in accordance with sub-paragraphs (2) to (6) below.
- (2) In section 3(1) for the words "mother of the infant is then residing with the father of the infant", there shall be substituted the words "parents are then residing together".
- (3) In section 3(2) there shall be substituted—
- (a) for the words "the mother", where they first occur, the words "any person (whether or not one of the parents)"; and
 - (b) for the words "the mother is then residing with the father", the words "the parents are residing together"; and
 - (c) for the words "the father shall pay to the mother" the words "the parent or either of the parents excluded from having that custody shall pay to that person"; and
 - (d) for the words "the father", where they last occur, the words "that parent".
- (4) In section 3(3) there shall be substituted—
- (a) for the words "mother resides with the father", the words "parents are residing together"; and
 - (b) for the words "the mother of the infant continues to reside with the father", the words "they continue to reside together".
- (5) At the end of section 3(3) there shall be added—
- “Provided that unless the court in making the order directs otherwise, this subsection shall not apply to any provisions of the order giving the custody of the child to a person other than one of the parents or made with respect to a child of whom custody is so given.”
- (6) In section 3(4), for the words "either of the father or the mother of the infant" there shall be substituted the words "of either parent or of any other person having the custody of the child by virtue of an order made under section 5 of the Guardianship of Infants Act 1886."

Maintenance Orders Act 1950, s. 7

- 2 In section 7 of the Maintenance Orders Act 1950 there shall be substituted—
- (a) for the words "to the mother", where they first occur, the words "to a person resident in Scotland"; and
 - (b) for the words "requiring the father to make payments to the mother" the words "requiring payments to be made"; and

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- (c) for the words " the father", where they last occur, the words " one parent" and for the words " the mother ", in the last two places where they occur, the words " the other parent".

PART II

TEXTS OF S. 3 AND S. 7 AS AMENDED

Guardianship of Infants Act 1925, s. 3, as amended

- “3 (1) The power of the court under section five of the Guardianship of Infants Act 1886 to make an order as to the custody of an infant and the right of access thereto may be exercised notwithstanding that the parents are then residing together.
- (2) Where the court under the said section as so amended makes an order giving the custody of the infant to any person (whether or not one of the parents), then, whether or not the parents are residing together, the court may further order that the parent or either of the parents excluded from having that custody shall pay to that person towards the maintenance of the infant such weekly or other periodical sum as the court, having regard to the means of that parent, may think reasonable.
- (3) No such order, whether for custody or maintenance, shall be enforceable and no liability thereunder shall accrue while the parents are residing together, and any such order shall cease to have effect if for a period of three months after it is made they continue to reside together:
- Provided that unless the court in making the order directs otherwise, this subsection shall not apply to any provisions of the order giving the custody of the child to a person other than one of the parents or made with respect to a child of whom custody is so given.
- (4) Any order so made may, on the application of either parent or of any other person having the custody of the child by virtue of an order made under section five of the Guardianship of Infants Act 1886, be varied or discharged by a subsequent order.”

Maintenance Orders Act 1950, s. 7, as amended

- “7 An order under the Guardianship of Infants Acts 1886 and 1925, giving the custody of a pupil child to a person resident in Scotland, whether with or without an order requiring payments to be made towards the maintenance of the pupil child, may be made, if one parent resides in England or Northern Ireland and the other parent and the pupil child in Scotland, by the sheriff within whose jurisdiction the other parent resides.”

SCHEDULE 5

Section 14.

CONSEQUENTIAL AMENDMENTS RELATING TO SCOTLAND

- 1 In section 5 of the Guardianship of Infants Act 1886, at the end there shall be added—
- “or (whether before or after the death of either parent) of any other person having the custody of the child by virtue of an order made under this section”.

Status: This is the original version (as it was originally enacted).

- 2 In section 8 of the Guardianship of Infants Act 1925, for the words " as amended by this Act" there shall be substituted the words " by virtue of section 3 of this Act or under section 11(3) of the Guardianship Act 1973 ".
- 3 In section 2(1) of the Illegitimate Children (Scotland) Act 1930, after the words " either parent", where they last occur, there shall be inserted the words " or of any other person having the custody of the child by virtue of an order made under this section ",
- 4 In section 16(2)(b) of the 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 ;”.
- 5 In section 8(1)(d) of the 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 ".
- 6 In section 8(1)(d) of the 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 ".
- 7 In section 2(2) of the 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 ".