



Guardianship Act 1973

1973 CHAPTER 29

PART I

ENGLAND AND WALES

1 Equality of parental rights

- (1) In relation to the custody or upbringing of a minor, and in relation to the administration of any property belonging to or held in trust for a minor or the application of income of any such property, a mother shall have the same rights and authority as the law allows to a father, and the rights and authority of mother and father shall be equal and be exercisable by either without the other.
- (2) An agreement for a man or Woman to give up in whole or in part, in relation to any child of his or hers, the rights and authority referred to in subsection (1) above shall be unenforceable, except that an agreement made between husband and wife which is to operate only during their separation while married may, in relation to a child of theirs, provide for either of them to do so ; but no such agreement between husband and wife shall be enforced by any court if the court is of opinion that it will not be for the benefit of the child to give effect to it.
- (3) Where a minor's father and mother disagree on any question affecting his welfare, either of them may apply to the court for its direction, and (subject to subsection (4) below) the court may make such order regarding the matters in difference as it may think proper.
- (4) Subsection (3) above shall not authorise the court to make any order regarding the custody of a minor or the right of access to him of his father or mother.
- (5) An order under subsection (3) above 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 the Guardianship of Minors Act 1971, or (before or after the death of either parent) on the application of any other person having the custody of the minor.

Status: This is the original version (as it was originally enacted).

- (6) Section 15(1) to (3) and section 16 of the Guardianship of Minors Act 1971 (jurisdiction and procedure) shall apply for the purposes of subsections (3) to (5) above as if they were contained in section 9 of that Act, except that section 15(3) shall not exclude any jurisdiction of a county court or a magistrates' court in proceedings against a person residing in Scotland or Northern Ireland for the revocation, revival or variation of any order under subsection (3) above.
- (7) Nothing in the foregoing provisions of this section shall affect the operation of any enactment requiring the consent of both parents in a matter affecting a minor, or be taken as applying in relation to a minor who is illegitimate.
- (8) In the Sexual Offences Act 1956 there shall be substituted for section 38 the provisions set out in Schedule 1 to this Act, and in the Mental Health Act 1959 in section 49(4) (d) (under which for purposes of that Act a man deprived under the said section 38 of authority over a patient is not to be treated as the patient's nearest relative) for the word " man " there shall be substituted the word " person " ; but, save as aforesaid, nothing in this section shall be taken to affect the provisions of the Mental Health Act 1959 as to the person who is " the nearest relative " for purposes of the Act.