

New Zealand.



ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;">AS TO GUARDIANSHIP AND CUSTODY OF INFANTS.</p> <p>3. On death of father, mother to be guardian alone or jointly with others.</p> <p>4. Mother may appoint guardian in certain cases.</p> <p>5. Powers of guardian.</p> <p>6. Court may make orders as to custody.</p> | <p>7. Power to Court to remove guardian.</p> <p>8. Guardianship in case of divorce or judicial separation.</p> <p>9. Rules as to procedure.</p> <p>10. Saving clause.</p> <p style="text-align: center;">AS TO CONTRACTS OF INFANTS.</p> <p>11. Contracts by infants, except for necessities, to be void.</p> <p>12. No action to be brought on ratification of infants' contract.</p> |
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1887, No. 4.

AN ACT to amend the Law relating to the Guardianship and Contracts of Infants. Title.
[6th June, 1887.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Infants Guardianship and Contracts Act, 1887." Short Title.

AS TO GUARDIANSHIP AND CUSTODY OF INFANTS.

2. In this Act, if not inconsistent with the context, "Court" means the Supreme Court of New Zealand. Interpretation.

3. On the death of the father of an infant, and in case the father shall have died prior to the passing of this Act then from and after the passing of this Act, the mother, if surviving, shall be the guardian of such infant, either alone when no guardian has been appointed by the father, or jointly with any guardian appointed by the father. When no guardian has been appointed by the father, or if the guardian or guardians appointed by the father is or are dead, or refuses or refuse to act, the Court may, if it shall think fit, from time to time appoint a guardian or guardians to act jointly with the mother. On death of father, mother to be guardian alone or jointly with others.

4. (1.) The mother of any infant may by deed or will appoint any person or persons to be guardian or guardians of such infant after the death of herself and the father of such infant (if such infant be then unmarried), and where guardians are appointed by both parents they shall act jointly. Mother may appoint guardian in certain cases.

(2.) The mother of any infant may by deed or will provisionally nominate some fit person or persons to act as guardian or guardians

of such infant after her death jointly with the father of such infant, and the Court, after her death, if it be shown to the satisfaction of the Court that the father is for any reason unfitted to be the sole guardian of his children, may confirm the appointment of such guardian or guardians, who shall thereupon be authorized and empowered so to act as aforesaid, or make such other order in respect of the guardianship as the Court shall think right.

(3.) In the event of guardians being unable to agree upon a question affecting the welfare of an infant, any of them may apply to the Court for its direction, and the Court may make such order or orders regarding the matters in difference as it shall think proper.

Powers of guardian.

5. Every guardian under this Act shall have all such powers over the estate and the person, or over the estate (as the case may be), of an infant as any guardian appointed by will or otherwise now has in England under the Act twelve Charles the Second, chapter twenty-four, or otherwise.

Court may make orders as to custody.

6. The Court may, upon the application of the mother of any infant (who may apply without next friend), make such order as it may think fit regarding the custody of such infant and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may alter, vary, or discharge such order on the application of either parent, or, after the death of either parent, of any guardian under this Act, and in every case may make such order respecting the costs of the mother and the liability of the father for the same or otherwise as to costs as it may think just.

Power to Court to remove guardian.

7. The Court may, in its discretion, on being satisfied that it is for the welfare of the infant, remove from his office any testamentary guardian, or any guardian appointed or acting by virtue of this Act, and may also, if it shall deem it to be for the welfare of the infant, appoint another guardian in place of the guardian so removed.

Guardianship in case of divorce or judicial separation.

8. In any case where a decree for judicial separation, or a decree either nisi or absolute for divorce, shall be pronounced, the Court pronouncing such decree may thereby declare the parent by reason of whose misconduct such decree is made to be a person unfit to have the custody of the children (if any) of the marriage; and in such case the parent so declared to be unfit shall not, upon the death of the other parent, be entitled as of right to the custody or guardianship of such children.

Rules as to procedure.

9. Rules for regulating the practice and procedure in any proceedings under this Act, and the forms in such proceedings, may from time to time be made in the same manner and by the same authority as general rules of practice and procedure may from time to time be made for the Supreme Court under any Act for the time being in force authorizing the making of such last-mentioned rules.

Saving clause.

10. Nothing in this Act contained shall restrict or affect the jurisdiction of the Court to appoint or remove guardians, or otherwise in respect of infants.

AS TO CONTRACTS OF INFANTS.

Contracts by infants, except for necessities, to be void.

11. All contracts whether by specialty or by simple contract, henceforth entered into by infants for the repayment of money lent or

to be lent, or for goods supplied or to be supplied (other than contracts for necessaries), and all accounts stated with infants, shall be absolutely void: Provided that this enactment shall not invalidate any contract into which an infant may, by any existing or future statute, or by the rules of common law or equity, enter, except such as now by law are voidable.

12. No action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification made after full age of any promise or contract made during infancy, whether there shall or shall not be any new consideration for such promise or ratification after full age.

No action to be brought on ratification of infants' contract.