

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,  
Clerk of the Parliaments.

Legislative Council Chamber,  
Sudney, 12th February, 1930.

### GUARDIANSHIP OF INFANTS BILL.

#### SCHEDULE of the Legislative Assembly's Amendments.

- Page 2, clause 3, line 10. After "jurisdiction" insert "or the judge presiding at any district court or a stipendiary or police magistrate presiding in a court under the Justices Act"
- Page 2, clause 3, line 19. After "court" insert "or the judge or stipendiary or police magistrate aforesaid"
- Page 2, clause 3, line 25. After "court" insert "or the judge or stipendiary or police magistrate aforesaid"
- Page 2, clause 3, line 29. After "court" insert "or the judge or stipendiary or police magistrate aforesaid"
- Page 2, clause 3, line 34. After "court" insert "or the judge or stipendiary or police magistrate aforesaid"
- Page 2, clause 3, line 36. After "reasonable" insert "No such order shall be made under this subsection in respect of the maintenance of an infant over the age of sixteen years, and any order made in respect of the maintenance of an infant under that age shall be limited to maintenance until he completes that age"
- Page 3, clause 3, line 13. After "court" insert "or the judge or stipendiary or police magistrate aforesaid"
- Page 3, clause 3, line 17. After "court" insert "or the judge or stipendiary or police magistrate aforesaid"
- Page 3, clause 3. At end of clause add new subsection (8).

purposes connected therewith.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Guardianship of Short title. Infants Act, 1930."

3765

c 60—A

**2.**

NOTE.—The words to be inserted are printed in black letter.



This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,  
Clerk of the Parliaments.

Legislative Council Chamber,  
Sydney, 12th February, 1930.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with Amendments.

S. G. BOYDELL,  
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,  
Sydney, 13 March, 1930.

## New South Wales.



ANNO VICESIMO

## GEORGII V REGIS.

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Act No. , 1930.

An Act to amend the law with respect to the guardianship and custody of infants; to amend the Infants' Custody and Settlements Act of 1899, the Testator's Family Maintenance and Guardianship of Infants Act, 1916, and certain other Acts; and for purposes connected therewith.

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**1.** This Act may be cited as the "Guardianship of Short title. Infants Act, 1930."

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**2.**

NOTE.—The words to be inserted are printed in black letter.



*Guardianship of Infants.*

2. The Infants' Custody and Settlements Act of 1899 is amended by inserting at the end of section one the following words and figures:—

Amendment of Act No. 39, 1899, s. 1.

PART IV.—Provisions applicable in all courts—ss. 17, 18.

3. The Infants' Custody and Settlements Act of 1899 is amended by omitting section five and by inserting in lieu thereof the following new section:—

Amendment of Act No. 39, 1899, s. 5. New section.

5. (1) The Supreme Court in its equitable jurisdiction, or the judge presiding at any district court or a stipendiary or police magistrate presiding in a court under the Justices Act, may, upon the application of the mother of any infant, make such order as it may think fit regarding the custody of the 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.

Custody of infant. 49 & 50 Vict, c. 27, s. 5.

(2) The power of the court or the judge or stipendiary or police magistrate aforesaid under this section to make an order as to the custody of an infant and the right of access thereto may be exercised notwithstanding that the mother of the infant is then residing with the father of the infant.

15 and 16 Geo. V, c. 45 s. 3.

(3) Where the court or the judge or stipendiary or police magistrate aforesaid under this section makes an order giving the custody of the infant to the mother, then, whether or not the mother is then residing with the father, the court or the judge or stipendiary or police magistrate aforesaid may further order that the father shall pay to the mother towards the maintenance of the infant such weekly or other periodical sum as the court or the judge or stipendiary or police magistrate aforesaid, having regard to the means of the father, may think reasonable. No such order shall be made under this subsection in respect of the maintenance of

of



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*Guardianship of Infants.*

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of an infant over the age of sixteen years, and any order made in respect of the maintenance of an infant under that age shall be limited to maintenance until he completes that age.

5 (4) No such order, whether for custody or maintenance, shall be enforceable and no liability shall accrue while the mother resides with the father, and any such order shall cease to have effect if for a period of three months after it is made the mother of the infant continues to reside with the father.

10 (5) In every case under this section the court or the judge or stipendiary or police magistrate aforesaid 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 thinks fit.

15 (6) The powers of the court or the judge or stipendiary or police magistrate aforesaid under this section to make orders regarding the custody of an infant, and the right of access thereto of either parent may be exercised upon the application of the father of an infant in like manner as those powers may be exercised upon the application of the mother of the infant. 18 & 19 Geo. V, c. 26, s. 16.

20 (7) Any order made under this section may, on the application either of the father or the mother or any guardian of the infant, be varied or discharged by a subsequent order.

25 (8) The fact that a parent contemplates leaving the jurisdiction shall not of itself be regarded by the court or the judge or stipendiary or police magistrate aforesaid as a reason for denying such parent the custody of the child or depriving such parent thereof if the court or the judge or stipendiary or police magistrate aforesaid is satisfied that the welfare of the child will best be served by allowing such parent to have or retain such custody.



*Guardianship of Infants.*

4. (1) The Infants' Custody and Settlements Act of 1899 is amended by inserting next after section sixteen the following new Part :— Amendment of Act No. 39, 1899. New Part IV.

PART IV.

5 *Provisions applicable in all courts.*

17. Where in any proceeding before any court (whether or not a court within the meaning of this Act) the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, or the application of the income thereof, is in question, the court, in deciding that question, shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim by the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration, or application is superior to that of the mother, or the claim of the mother is superior to that of the father. Custody, upbringing, and property of infant. 15 & 16 Geo. V, c. 45, s. 11.

18. The mother of an infant shall have the like powers to apply to any court in respect of any matter affecting the infant as are possessed by the father. Equal right of mother to apply to court. 15 & 16 Geo. V, c. 45, s. 2.

25 5. (1) The Testator's Family Maintenance and Guardianship of Infants Act, 1916, is amended by omitting sections thirteen, fourteen, fifteen, and sixteen, and by inserting in lieu thereof the following new sections :— Amendment of Act No. 41, 1916, ss. 13-16. New section.

30 13. (1) On the death of the father of an infant, the mother, if surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly, with any guardian appointed by the father. Rights of surviving parent as to guardianship. 15 & 16 Geo. V, c. 45, s. 4.

35 Where 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 thinks fit, appoint a guardian to act jointly with the mother.



*Guardianship of Infants.*

5 (2) On the death of the mother of an infant, the father, if surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly, with any guardian appointed by the mother.

10 Where no guardian has been appointed by the mother, or if the guardian or guardians appointed by the mother is or are dead or refuses or refuse to act, the court may, if it thinks fit, appoint a guardian to act jointly with the father.

14. (1) The father of an infant may by deed or will appoint any person to be guardian of the infant after his death. Power of mother and father to appoint guardians.

15 (2) The mother of an infant may by deed or will appoint any person to be guardian of the infant after her death. 15 & 16 Geo. V, c. 45, s. 5.

20 (3) Any guardian so appointed shall act jointly with the mother or father, as the case may be, of the infant so long as the mother or father remains alive, unless the mother or father objects to his so acting.

25 (4) If the mother or father so objects, or if the guardian so appointed considers that the mother or father is unfit to have the custody of the infant, the guardian may apply to the court.

30 The court may either refuse to make an order (in which case the mother or father shall remain sole guardian) or make an order that the guardian so appointed shall act jointly with the mother or father, or that he shall be sole guardian of the infant.

35 Where the court makes an order that the guardian so appointed shall be the sole guardian of the infant, the court may make such order regarding the custody of the infant and the right of access thereto of its mother or father as, having regard to the welfare of the infant, the court may think fit, and may further order that the mother or father shall pay to the guardian towards the maintenance of  
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*Guardianship of Infants.*

the infant such weekly or other periodical sum as, having regard to the means of the mother or father, the court may consider reasonable.

5 (5) Where guardians are appointed by both parents, the guardians so appointed shall, after the death of the surviving parent, act jointly.

10 (6) If under the preceding section a guardian has been appointed by the court to act jointly with a surviving parent, he shall continue to act as guardian after the death of the surviving parent; but if the surviving parent has appointed a guardian, the guardian appointed by the court shall act jointly with the guardian appointed by the surviving parent.

15 **6.** The Testator's Family Maintenance and Guardianship of Infants Act, 1916, is amended— Amendment of Act No. 41, 1916, s. 18.

(a) by omitting from section eighteen the words "of the Act" and by inserting in lieu thereof the words "of this Act";

20 (b) by inserting at the end of section eighteen the following new paragraph:—

The powers of the court under this section extend to the removal of either parent from guardianship under this Act.



*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

W. L. S. COOPER,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 12th February, 1930.*

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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Guardianship of Infants.

2. The Infants' Custody and Settlements Act of 1899 is amended by inserting at the end of section one the following words and figures:—

Amendment of Act No. 39, 1899, s. 1.

PART IV.—Provisions applicable in all courts—ss. 17, 18.

5

3. The Infants' Custody and Settlements Act of 1899 is amended by omitting section five and by inserting in lieu thereof the following new section:—

Amendment of Act No. 39, 1899, s. 5. New section.

5. (1) The Supreme Court in its equitable jurisdiction may, upon the application of the mother of any infant, make such order as it may think fit regarding the custody of the 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.

Custody of infant. 49 & 50 Vict., c. 27, s. 5.

(2) The power of the court under this section to make an order as to the custody of an infant and the right of access thereto may be exercised notwithstanding that the mother of the infant is then residing with the father of the infant.

15 and 16 Geo. V, c. 45, s. 3.

(3) Where the court under this section makes an order giving the custody of the infant to the mother, then, whether or not the mother is then residing with the father, the court may further order that the father shall pay to the mother towards the maintenance of the infant such weekly or other periodical sum as the court, having regard to the means of the father, may think reasonable.

(4) No such order, whether for custody or maintenance, shall be enforceable and no liability shall accrue while the mother resides with the father, and any such order shall cease to have effect if for a period of three months after it is made the mother of the infant continues to reside with the father.

(5)



*Guardianship of Infants.*

(5) In every case under this section the court 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 thinks fit.

5 (6) The powers of the court under this section to make orders regarding the custody of an infant, and the right of access thereto of either parent may be exercised upon the application of the father of an infant in like manner as those powers  
10 may be exercised upon the application of the mother of the infant.

(7) Any order made under this section may, on the application either of the father or the mother or any guardian of the infant, be varied  
15 or discharged by a subsequent order.

4. (1) The Infants' Custody and Settlements Act of 1899 is amended by inserting next after section sixteen the following new Part:—  
Amendment of Act No. 39, 1899.  
New Part IV.

## PART IV.

20 *Provisions applicable in all courts.*

17. Where in any proceeding before any court (whether or not a court within the meaning of this Act) the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, or the application  
25 of the income thereof, is in question, the court, in deciding that question, shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim by the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration, or application is superior to that of the mother, or the claim of the  
30 mother is superior to that of the father.

35 18. The mother of an infant shall have the like powers to apply to any court in respect of any matter affecting the infant as are possessed by the father.  
Equal right of mother to apply to court.  
*Ibid.* s. 2.



*Guardianship of Infants.*

**5.** (1) The Testator's Family Maintenance and Guardianship of Infants Act, 1916, is amended by omitting sections thirteen, fourteen, fifteen, and sixteen, and by inserting in lieu thereof the following new sections:—

Amendment  
of Act No. 41,  
1916, ss. 13-  
16.  
New section.

13. (1) On the death of the father of an infant, the mother, if surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly, with any guardian appointed by the father.

Rights of  
surviving  
parent as to  
guardianship.  
15 & 16 Geo.  
V, c. 45, s. 4.

Where 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 thinks fit, appoint a guardian to act jointly with the mother.

(2) On the death of the mother of an infant, the father, if surviving, shall, subject to the provisions of this Act, be guardian of the infant, either alone or jointly, with any guardian appointed by the mother.

Where no guardian has been appointed by the mother, or if the guardian or guardians appointed by the mother is or are dead or refuses or refuse to act, the court may, if it thinks fit, appoint a guardian to act jointly with the father.

14. (1) The father of an infant may by deed or will appoint any person to be guardian of the infant after his death.

Power of  
mother and  
father to  
appoint  
guardians.

(2) The mother of an infant may by deed or will appoint any person to be guardian of the infant after her death.

15 & 16 Geo.  
V, c. 45, s. 5,

(3) Any guardian so appointed shall act jointly with the mother or father, as the case may be, of the infant so long as the mother or father remains alive, unless the mother or father objects to his so acting.

(4) If the mother or father so objects, or if the guardian so appointed considers that the mother or father is unfit to have the custody of the infant, the guardian may apply to the court.

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*Guardianship of Infants.*

5 The court may either refuse to make an order (in which case the mother or father shall remain sole guardian) or make an order that the guardian so appointed shall act jointly with the mother or father, or that he shall be sole guardian of the infant.

10 Where the court makes an order that the guardian so appointed shall be the sole guardian of the infant, the court may make such order regarding the custody of the infant and the right of access thereto of its mother or father as, having regard to the welfare of the infant, the court may think fit, and may further order that the mother or father shall pay to the guardian towards the maintenance of the infant such weekly or other periodical sum as, having regard to the means of the mother or father, the court may consider reasonable.

20 (5) Where guardians are appointed by both parents, the guardians so appointed shall, after the death of the surviving parent, act jointly.

25 (6) If under the preceding section a guardian has been appointed by the court to act jointly with a surviving parent, he shall continue to act as guardian after the death of the surviving parent; but if the surviving parent has appointed a guardian, the guardian appointed by the court shall act jointly with the guardian appointed by the surviving parent.

30 **6.** The Testator's Family Maintenance and Guardianship of Infants Act, 1916, is amended—

Amendment  
of Act No. 41,  
1916, s. 18.

(a) by omitting from section eighteen the words "of the Act" and by inserting in lieu thereof the words "of this Act";

35 (b) by inserting at the end of section eighteen the following new paragraph:—

The powers of the court under this section extend to the removal of either parent from guardianship under this Act.



1930

THE UNIVERSITY OF CHICAGO

Department of Chemistry

Chicago, Illinois

February 10, 1930

Dear Sir:

I have received your letter of the 7th inst.

concerning the matter of the

appointment of a new member to the

Department of Chemistry.

I am sorry to hear that you

are unable to accept the offer.

I am sure that you will find

another position that will

be more to your liking.

I am sure that you will find

another position that will

be more to your liking.

I am sure that you will find

another position that will

be more to your liking.

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I am sure that you will find

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be more to your liking.

Very truly yours,