

CHAPTER 46:01

INFANCY ACT

ARRANGEMENTS OF SECTIONS

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LAWS OF GUYANA

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Infancy

1929 Ed.
c. 141
1953 Ed.
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CHAPTER 46:01

INFANCY ACT

19 of 1916

**An Act to introduce special provisions relating to the Contracts,
Wills and Guardianship of Infants.**

[28TH OCTOBER, 1916]

Short title.

1. This Act may be cited as the Infancy Act.

Interpretation.
[12 of 1983]

2. In this Act—

“infant” means any person who is a minor, whether born in wedlock or out of wedlock;

“father”, in relation to an infant who is born out of wedlock, means—

(i) the man who has been adjudged to be the father of the infant by a court of competent jurisdiction; or

(ii) if there is no such man, the man who has acknowledged the infant to be his child, and has contributed towards the maintenance of the infant, before he exercises or seeks to exercise in respect of the infant any rights or functions conferred on the father of an infant by any provision of this Act,

and the expression “parent”, in so far as it refers to the father of such infant, shall be construed accordingly.

Contracts by
infants, except
for necessities,
to be void.
[12 of 1983]

3. All contracts 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 necessities), and all accounts stated with infants, shall be absolutely void:

Provided that this enactment shall not invalidate any contract into which an infant, by any existing or future statute or by the rules of common law or equity, may enter except those now voidable by law.

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

No action to be brought on ratification of infant's contract.

5. If anyone, except under the authority of the High Court (hereinafter referred to as the Court) solicits an infant to make an affidavit or statutory declaration for the purpose of or in connection with any loan, he shall be liable on summary conviction to a fine of nineteen thousand five hundred dollars and to imprisonment for one month, and if convicted on indictment to a fine of ninety-seven thousand five hundred dollars or to imprisonment for three months.

Soliciting infant to make affidavit in connection with loan.
[6 of 1997]

6. (1) If an infant who has contracted a loan which is void in law agrees after he comes of age to pay any money which in whole or in part represents, or is agreed to be paid in respect of, that loan and is not a new advance, that agreement and any instrument, negotiable or other, given in pursuance thereof or for carrying it into effect, or otherwise in relation to the payment of money representing or in respect of the loan, so far as it relates to money which represents or is payable in respect of the loan and is not a new advance, shall be void absolutely as against all persons whomsoever.

Avoiding contract for payment of loan advanced during infancy.

(2) For the purposes of this section any interest, commission, or other payment, in respect of the loan shall be deemed to be a part of the loan.

7. (1) An infant may be appointed executor but cannot exercise the office until he has attained the full age of eighteen years.

Infant executors and administrators.
[O. 4/1974]
c. 12:01

(2) Letters of administration under the Deceased Persons Estates Administration Act shall not be granted to anyone before he has reached the age of eighteen years, but if an infant is named as sole executor by a will, letters of administration *durante minore aetate* may be granted to his guardian or to any other person the Registrar of Deeds or the Court deems fit.

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Wills of
infants.
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8. An infant can make a will without the consent of parent or guardian if he or she has attained the full age of fourteen years, but subject as aforesaid an infant cannot make a will.

Marriage
settlements
with the
sanction of the
court.

9. (1) An infant above the age of seventeen years may, with the sanction of the Court, upon or in contemplation of marriage make a valid and binding settlement or contract for a settlement of all or any property movable or immovable, real or personal, whether in possession, reversion, remainder, or expectancy, to or over which he or she is entitled or has any power of appointment, not being a power expressly declared to be incapable of being exercised during infancy; and all transports or conveyances, mortgages, appointments of property, and contracts to make a conveyance, or transport, mortgage, or appointment, executed by the infant with the approbation of the Court in order to give effect to the settlement shall be as valid as if the infant were of full age.

(2) The Court may sanction the settlement or contract upon petition, presented by the infant or his or her guardian, in a summary way without the institution of a suit, and, if there is no guardian, may or may not require a guardian to be appointed, and also may if it thinks fit require any persons interested or appearing to be interested to be served with notice of the petition.

Marriage to
render infant
of full age.
[O. 4/1974]

10. An infant whether male or female shall be deemed by the mere fact of marriage to have attained full age, but the Court by order, made upon petition by the infant or his or her guardian, or by the Public Trustee, in a summary way without the institution of a suit, may give any directions it sees fit for the protection of the property of the parties until they have attained the age of eighteen.

Parent under
18 may
appoint
guardian.
[O. 4/1974]

11. Subject to the other provisions of this Act, a parent under eighteen years whether male or female may, by will, deed, or document notarially executed, appoint as from the date of his or her death a guardian or guardians to any child or children who is or are unmarried at the date of his or her death.

Guardianship
of infant.

12. (1) Both the father and the mother of an infant shall be the guardians, and shall be entitled to the custody, of the infant.

(2) The father or mother of an infant, or both of them, may be deprived by the Court of the guardianship or custody of the infant or both under the provisions of this Act. [12 of 1983]

13. (1) Any guardian or guardians may assume the custody to the use of any infant of the profits of all his immovable property, and also the custody, tuition, and management of his movable property, until he reaches the age of eighteen years or until his marriage, and bring any action or actions in relation thereto and may take or grant leases on his behalf. Guardian's custody and management of infant's property during infancy. [O. 4/1974]

(2) Where any property is held by a guardian, trustee, administrator, or executor, in trust for an infant (whether the trust is express, implied, or constructive), either for life or for any greater interest, and whether absolutely or contingently on the infant attaining the age of eighteen years, or on the occurrence of any event before the infant's attaining that age, the guardian, trustee, administrator, or executor, may at his sole discretion pay to the infant's parent or guardian (if any) or otherwise apply for or towards the infant's maintenance, education, or benefit, the income of that property or any part thereof, whether there is or is not any other fund applicable to the same purpose, or anyone bound by law to provide for the infant's maintenance or education. Application of income of property of infants for purposes of education or otherwise. [O. 4/1974]

(3) The guardian, trustee, administrator or executor aforesaid shall accumulate all the residue of that income in the way of compound interest by investing it and the resulting income thereof from time to time on securities on which he is by the settlement (if any) or by law authorised to invest trust money, and shall hold those accumulations for the benefit of the person who ultimately becomes entitled to the property from which they arise; but so that the guardian, trustee, administrator, or executor may at any time, if he thinks fit, apply those accumulations or any part thereof, as if they were income arising in the then current year.

(4) This section applies—

(a) only if and as far as a contrary intention is not expressed in the instrument (if any), under which the interest of the infant

arises, and shall have effect subject to the terms of that instrument and to the provisions therein contained; and

(b) whether the guardian, trustee, administrator, or executor acquired that capacity before or after the commencement of this Act.

On death of one of the parents, the other parent to be guardian of the infant alone or jointly with others.
[12 of 1983]

14. (1) Subject to subsection (2), on the death of one of the parents of an infant, the surviving parent shall continue to be the guardian of the infant,—

(a) where any guardian has been appointed by the parent who died, jointly with that guardian; or

(b) where no guardian has been appointed by the parent who died, alone.

(2) Where one of the parents of an infant has died, and—

(a) no person has been appointed by him to be the guardian of the infant; or

(b) if the person or all the persons appointed by him to be the guardian or guardians of the infant is or are dead, or refuses or refuse to act,

the Court, if it thinks fit, may appoint any person or persons to be the guardian or guardians of the infant to act jointly with the surviving parent.

Parent's power of appointment of guardian in certain cases.
[12 of 1983]

15. (1) Any one of the parents of an infant may by will, deed, or document notarially executed appoint any fit person or persons to be guardian or guardians of the infant, after the death of that parent, jointly with the surviving parent.

(2) Both parents, acting jointly or separately, or any one of the parents, of an infant may by will, deed, or document notarially executed appoint any fit person or persons to be guardian or guardians of the infant, after the death of both parents.

(3) Where there are more than one person appointed under subsection (2) to be guardians of an infant, the guardians so appointed shall act jointly.

(4) If guardians are 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 any order or orders regarding the matters in difference it thinks proper.

16. Where the parents are living apart, the Court may, upon the application of a parent with whom the infant is not residing, make any order it thinks fit regarding the custody of the infant and the right of access to the infant of either parent, having regard to the welfare of the infant and the conduct of the parents, and to the wishes as well of the father as of the mother, and may alter, vary, or discharge the order on the application of either parent or, after the death of either parent, any guardian under this Act, and in every case may make any order respecting the costs of either parent and the liability of the other parent therefor, or otherwise as to costs, it thinks just.

Court may make order as to custody.
[12 of 1983]

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

Removal of guardian.

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

Guardianship in case of divorce or judicial separation.

19. Applications under this Act may be made to the Court in the manner prescribed by rules of court.

Application to Court.

20. No agreement contained in any separation deed made between the father and mother of any infant shall be held to be invalid by reason only of its providing that the custody or control of the infant shall be left exclusively to one parent:

In case of separation deed between father and mother.
[12 of 1983]

Provided that the Court shall not enforce that agreement if the Court is of opinion that it will not be for the infant's benefit to give effect thereto.

Court to retain
upper
guardianship.

21. The Court may exercise in the matter of an infant any power which the Supreme Court of British Guiana has hitherto exercised as upper guardian of minors under the Roman-Dutch law practice or procedure, and may further exercise any power now or at anytime hereafter exercised in those matters by the Chancery Division of the High Court of Justice in England in accordance with any practice or procedure of that Court.
