

CHAPTER 8.

An Act to provide for the guardianship of infants who have come to the United Kingdom in consequence of war or persecution. [1st March 1944.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Appointment of guardian in England or Northern Ireland.

1.—(1) The Secretary of State may appoint a guardian of any person who is for the time being in England if it appears to him—

(*a*) that that person (hereinafter referred to as the " ward ") arrived in the United Kingdom at any time after the end of the year nineteen hundred and thirty-six in consequence of war (whether foreign or civil) or of religious, racial or political persecution, and had not at the time of his arrival attained the age of sixteen years ;

(*b*) that no parent of the ward is in the United Kingdom ; and

(*c*) that the ward has not attained the age of twenty-one years and, in the case of a female, has never been married.

(2) The Secretary of State shall take such steps (if any) as appear to him to be practicable to give notice of an appointment under this section to any parent of the ward whose name and address is known to him.

(3) Where a guardian is appointed as aforesaid—

(*a*) he shall have the same powers and duties as he would have if he had been appointed guardian of the person of the ward by the High Court with express power to authorise such societies or persons as he considers

suitable to act on his behalf in respect of such matters as he thinks proper; and

(*b*) the ward shall be treated, for the purpose of any question arising in respect of the guardianship in Scotland or Northern Ireland, as if he were domiciled in England:

Provided that nothing in this subsection shall be taken to constitute the ward a ward of court.

(4) The Secretary of State may revoke the appointment of a guardian made by him under this section without prejudice to his power to make another appointment, and shall revoke such an appointment on the application of a parent of the ward unless he is satisfied that proper arrangements have not been made by the parent for the care of the ward.

(5) The High Court may remove a guardian appointed by the Secretary of State under this section and appoint another guardian in his place, or may appoint another guardian to act together with a guardian appointed by the Secretary of State under this section.

(6) An appointment by the Secretary of State under this section may be declared void by the High Court on the application of the ward on the ground that at the time of the appointment the ward had attained the age of twenty-one years or, in the case of a female, was or had been married; but save as aforesaid the validity of any such appointment shall not be questioned in any proceedings whatsoever.

(7) The appointment of a guardian of a ward under this section shall terminate on the ward attaining the age of twenty-one years or, in the case of a female, attaining the age of twenty-one years or marrying under that age.

(8) The consent required to the marriage of a ward of whom a guardian has been appointed by the Secretary of State under this section shall be that of the guardian so appointed, and accordingly subsections (1), (2) and (3) of section nine of the Guardianship of Infants Act, 1925, and section ten of the Marriage Act, 1836, shall have effect in relation to the ward as if a reference to the said guardian were substituted for the reference in the said subsection (1) to the persons or person mentioned in the Schedule to the said Act of 1925:

15 & 16 Geo. 5. c. 45.
6 & 7 Will. 4. c. 85.

Provided that—

(*a*) this subsection shall not apply where the guardian appointed by the Secretary of State is acting with a guardian appointed by the High Court; and

(*b*) where, apart from this subsection, the consent of any person to the marriage of the ward would be required

under the said section nine, this subsection shall not apply unless the superintendent registrar or ecclesiastical authority concerned with the marriage is satisfied that, by reason of absence or inaccessibility, the consent of that person cannot be obtained.

(9) This section shall apply to Northern Ireland subject to the following modifications—

(*a*) for references to England there shall be substituted references to Northern Ireland and for the reference to Northern Ireland there shall be substituted a reference to England;

(*b*) for references to the Secretary of State there shall be substituted references to the Minister of Home Affairs for Northern Ireland;

(*c*) references to the High Court shall be construed as references to the High Court in Northern Ireland;

(*d*) the following subsection shall be substituted for subsection (8):—

"(8) The consent required to the marriage of a ward of whom a guardian has been appointed by the Minister of Home Affairs for Northern Ireland under this section shall be that of the guardian so appointed, and accordingly section nineteen of the Marriages (Ireland) Act, 1844, and the Guardianship of Infants Act, 1886, shall have effect in relation to the ward as if a reference to the said guardian were substituted for the reference in the said section nineteen to the person or persons mentioned in the said section: 7 & 8 Vict. c. 81. 49 & 50 Vict. c. 27.

Provided that—

(*a*) this subsection shall not apply where the guardian appointed by the Minister of Home Affairs is acting with a guardian appointed by the High Court; and

(*b*) where, apart from this subsection, the consent of any person to the marriage of the ward would be required under the said section nineteen and the Guardianship of Infants Act, 1886, this subsection shall not apply unless the superintendent registrar, the registrar of a district or the ecclesiastical authority concerned with the marriage is satisfied that, by reason of absence or inaccessibility, the consent of that person cannot be obtained."

Appointment of tutor in Scotland.

2.—(1) The Secretary of State may appoint a tutor to any person who is for the time being in Scotland if it appears to him—

(*a*) that that person (hereinafter referred to as the " pupil ") arrived in the United Kingdom at any time after the end of the year nineteen hundred and thirty-six in consequence of war (whether foreign or civil) or of religious, racial or political persecution;

(*b*) that no parent of the pupil is in the United Kingdom; and

(*c*) that the pupil has not attained the age of fourteen years in the case of a male or twelve years in the case of a female.

(2) The Secretary of State shall take such steps (if any) as appear to him to be practicable to give notice of an appointment under this section to any parent of the pupil whose name and address is known to him.

(3) Where a tutor is appointed as aforesaid—

(*a*) he shall have the same powers and duties as he would have if he had been appointed tutor to the pupil by the Court of Session and shall have power to authorise such societies or persons as he considers suitable to act on his behalf in respect of such matters as he thinks proper; and

(*b*) the pupil shall be treated, for the purpose of any question arising in respect of the tutorship in England or Northern Ireland, as if he were domiciled in Scotland.

(4) The Secretary of State may revoke the appointment of a tutor made by him under this section, without prejudice to his power to make another appointment, and shall revoke such an appointment on the application of a parent of the pupil unless he is satisfied that proper arrangements have not been made by the parent for the care of the pupil.

(5) The Court of Session may remove a tutor appointed by the Secretary of State under this section and appoint another tutor in his place, or may appoint another tutor to act together with a tutor appointed by the Secretary of State under this section.

(6) An appointment by the Secretary of State under this section may be declared void by the Court of Session on the application of the pupil on the ground that at the time of the appointment the pupil had attained the age of fourteen years in the case of a male or twelve years in the case of a female; but save as aforesaid the validity of any such appointment shall not be questioned in any proceedings whatsoever.

(7) The appointment of a tutor to a pupil under this section shall terminate on the pupil attaining the age of fourteen years in the case of a male or twelve years in the case of a female.

Short title, interpretation and duration.

3.—(1) This Act may be cited as the Guardianship (Refugee Children) Act, 1944.

(2) In this Act the expression " parent ", in relation to a ward or pupil includes a guardian or tutor appointed otherwise than under this Act, but does not include a person of unsound mind or a person who has been deprived of the custody of the ward or pupil by a court of competent jurisdiction.

(3) After the expiration of the Emergency Powers (Defence) Act, 1939, the Secretary of State or Minister of Home Affairs for Northern Ireland shall not appoint under this Act a guardian of a ward, or a tutor to a pupil, of or to whom no guardian or tutor has previously been so appointed.

2 & 3 Geo. 6. c. 62.

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