SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 23.

An Act to enable provision to be made for the temporary guardianship of children sent out of the United Kingdom during the present war period.

[12th June 1941.]

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:—

Guardianship of children sent overseas during the present war period.

1.—(1) If the Secretary of State is satisfied that, for the purpose of affording assistance to any authorities, societies or persons in any country outside the United Kingdom who undertake responsibility for the welfare of children who are in that country without their parents in consequence of war operations, it is expedient to appoint guardians for any children sent out of the United Kingdom during the present war period who are for the time being in that country, he may, on the application of any such authority, society or person, appoint such guardians; and a person so appointed as guardian for any child is hereinafter referred to as the appointed guardian of the child:

Provided that the powers of the Secretary of State under this subsection shall not be exercised with respect to any child sent out of the United Kingdom after the passing of this Act unless the Secretary of State is satisfied that the parents of the child have consented to their exercise.

(2) Where a person has become the appointed guardian of a child in any country, then, subject as hereinafter provided, so long as the child remains in that country the appointed

guardian shall be deemed to be the sole guardian of the person of the child, and may exercise all functions exercisable in accordance with the law of England by the sole guardian of the person of an infant domiciled in England, notwithstanding that the child may not be so domiciled, including the function of authorising such authorities, societies or persons as he considers suitable to act on his behalf in respect of such matters as he thinks proper:

Provided that, if at any time the parents of the child are in that country and give to the appointed guardian of the child notice in writing that they assume responsibility for the child, then, except in so far as may be agreed between the appointed guardian and the parents, the functions of the appointed guardian shall not be exercisable under this Act with respect to the child while the parents remain in the country, unless the appointed guardian is unable after reasonable enquiry to trace the parents.

(3) The Secretary of State may revoke the appointment of the appointed guardian of any child; and if the parents of any child who was sent out of the United Kingdom before the passing of this Act and for whom such a guardian has been appointed request the Secretary of State to revoke the appointment, the Secretary of State shall, as soon as he is satisfied that proper arrangements have been made for the care of the child, revoke the appointment.

(4) In this Act the expression "child" means a person who at the time of his being sent out of the United Kingdom had not attained the age of sixteen years; and the expression "the present war period" means the period beginning with the third day of September nineteen hundred and thirty-nine and ending with the expiry of the Emergency Powers (Defence) Act, 1939.

2 & 3 Geo. 6. c. 62.

(5) For the purposes of this Act, a child domiciled in any part of the United Kingdom who has at any time during the present war period been left unaccompanied by his parents in any country outside the United Kingdom shall be deemed to have been sent out of the United Kingdom at that time.

(6) Subject as hereinafter provided, any reference in this Act to the parents of a child shall be construed—

(*a*) in the case of a child who, apart from the provisions of this Act is, or would but for those provisions be, under the guardianship of one parent only, as a reference to that parent;

(*b*) in the case of a child who, apart from the provisions of this Act is, or would but for those provisions be, under the guardianship of any person other than a parent and is not or would not be under the guardianship of either parent, as a reference to that person;

(*c*) in the case of a child who, apart from the provisions of this Act is, or would but for those provisions be, under the guardianship of a parent and any person other than a parent, as a reference to the parent and that other person:

Provided that any such reference shall not in the case of any child include a reference to any person who has been deprived of the custody of the child by the order of a court of competent jurisdiction, and in relation to any such case the foregoing provisions of this subsection shall have effect as if for any reference to that person there were substituted a reference to the person appointed by that court to have the custody of the child.

Short title and extent.

2.—(1) This Act may be cited as the Temporary Migration of Children (Guardianship) Act, 1941.

(2) It is hereby declared that this Act extends to Northern Ireland.

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