Tenures Abolition Act (Ireland) 1662

Chapter 19

An Act for taking away the court of wards and liveries, and tenures in capite, and by knights service.[1]

Preamble rep. by 1978 NI 4 art.16(2) sch.2 Pt.II

Ss.I–V rep. by 1978 NI 4 art.16(2) sch.2 Pt.II

VI.[2] AND where any person or persons hath, or shall have, any child or children under the age of [3eighteen] years, and not married at the time of his death, that it shall and may be lawful to and for the father of such child or children, whether born at the time of the decease of the father, or at the time in ventre sa mere, or whether such father be within the age of [3eighteen] years[4], or of full age, by his deed executed in his life time, or by his last will and testament in writing, in the presence of two or more credible witnesses, in such manner, and from time to time, as he shall respectively think fit, to dispose of the custody and tuition of such child or children, for and during such time as he or they shall respectively remain under the age of [3eighteen] years, or any lesser time, to any person or persons in possession or remainder, . . .[5] as aforesaid; and that such disposition of the custody of such child or children, made since the three and twentieth day of October one thousand six hundred forty one, or hereafter to be made, shall be good and effectual against all and every person and persons claiming the custody and tuition of such child or children as guardian in soccage, or otherwise; and that such person or persons, to whom the custody of such child or children hath been or shall be so disposed or devised as aforesaid, shall and may maintain an action of ravishment of ward or trespass against any person or persons which shall wrongfully take away or detain such child, for the recovery of such child or children, and shall and may recover damages for the same in the said action, for the use and benefit of such child or children.

Father within or of full age, may by deed, or will in writing, in presence of 2 or more witnesses, dispose of custody of children, under 18 and not married, whether born or in ventre sa mere, till eighteen or lesser time, in possession, or remainder, which effectual against person claiming as guardian in socage or otherwise.

Ravishment of Ward or Trespass may be maintained, and damages recovered for use of such child.

Such guardian may take for use of the children the profits of lands and management of personal estate, and bring such actions as guardian in socage might.

VII. AND such person or persons, to whom the custody of such child or children hath been or shall be so disposed or devised, shall and may take into his or their custody to the use of such child or children, the profits of all lands, tenements and hereditaments of such child or children, and also the custody, tuition and management of the goods, chattles and personal estate of such child or children, till their respective age of [3eighteen] years, or any lesser time, according to such disposition aforesaid, and may bring such action or actions in relation thereunto, as by law a guardian in soccage might do.

All tenures to be created by the King, shall be in free and common socage only.

VIII. AND all tenures hereafter to be created by the Kings Majesty, his heirs or successors, upon any gifts or grants or any manors, lands, tenements or hereditaments of any estate of inheritance at the common law, shall be and be adjudged to be in free and common soccage only, and not by knights service or in capite, and shall be discharged of all wardships, value and forfeiture of marriage, livery, primer seizin, ousterlemain, aide pur fair fitz chivalier, aide pur fitz marrier; any law, statute or reservation to the contrary thereof in any wise notwithstanding.

Ss.IX–XIV rep. by 1790 c.29 (I) s.4; 1978 NI 4 art.16(2) sch.2 Pt.II

Profits of lands may be received, and personal estate managed, and actions brought as by guardian in socage.

XV. AND such person or persons, to whom the custody of such heir or heirs shall be so disposed[6], shall and may take into his or their custody, to the use of such heir or heirs, the profits of all such lands, tenements and hereditaments of such heir and heirs, and also the custody, tuition and management of the goods, chattles, and personal estate of such heir and heirs, till the respective age of [3eighteen] years, or any lesser time, according to such disposition aforesaid, and may bring such action or actions in relation thereunto, as by law a guardian in common soccage might do.

Heirs, executors or administrators of guardian dying before accounting, liable, defalking necessary charges, as far as assets.

XVI. ALSO if such person or persons, to whom such grant or grants shall be made of the custody of such child or children, shall die before he hath yielded an accompt unto the said heir or heirs, of the full profits of such lands, tenements and hereditaments, defalking all necessary and just charges; that then the heirs, executors or administrators of such guardian shall be liable and yield a full accompt unto the said heir, his executors and administrators, of all such profits, goods and chattles real and personal, so received by the said guardian for the benefit and advantage of the said heirs, defalking all necessary and just charges as aforesaid, so far as they shall have assets to them descended, and come from the said guardian, or in his right, at the time of demand of satisfaction for the same; and if the said child or children shall die before he or they shall attain to his or their age of [3eighteen] years as aforesaid, that then it shall and may be lawful to and for the executor or administrator of such child or children to call the person and persons so trusted for the benefit of him or them, and his or their heirs, executors or administrators, to an account for the same, and to receive such benefit thereby as the executors or defunct might have done.

Executors or administrators of children dying before eighteen, may call to account.

Ss. XVII–XIX rep. by SLR (I) 1878. Ss.XX–XXII rep. by 1978 NI 4 art.16(2) sch.2 Pt.II

References

1. Short title "The Tenures Abolition Act (Ireland) 1662". 1951 c.1 (NI)
   Powers of guardians app., 1886 c.27 s.4
2. Am., 1886 c.27 s.5A
3. Subst., 1969 c.28 (NI) s.1(3) sch.1 Pt.I
4. See 1837 c.26 s.7
5. Rep., SLR (NI) 1953
6. This refers to provisions of s.14 which enabled Lord Chancellor to appoint guardians
   For appointment of guardians see 1886 c.27