



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 12.05

# GUARDIANSHIP, CUSTODY AND ACCESS TO CHILDREN ACT

#### Revised Edition

showing the law as at 31 December 2017

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#### GUARDIANSHIP, CUSTODY AND ACCESS TO CHILDREN ACT

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## **CHAPTER 12.05**

### **GUARDIANSHIP, CUSTODY AND ACCESS TO CHILDREN ACT**

AN ACT TO DEFINE AND REGULATE THE AUTHORITY OF PARENTS AS GUARDIANS OF THEIR CHILDREN, THEIR POWER TO APPOINT GUARDIANS AND THE POWERS OF THE COURT IN RELATION TO THE GUARDIANSHIP, CUSTODY AND ACCESS TO CHILDREN AND RELATED MATTERS.

#### **PART I**

##### **PRELIMINARY**

###### **Short title.**

1. This Act may be cited as the Guardianship, Custody and Access to Children Act.

###### **Interpretation.**

2. In this Act—

“care and control” in relation to a child, means the actual possession of his person, whether or not that possession is shared with one or more persons;

“child” means—

(a) a person under the age of 18 years;

(b) a person 18 years and older whose special circumstances are such that he is unable to reasonably provide for his daily requirements;

“Child Abduction Convention (International Civil Aspects) Act” means the Child Abduction Convention (International Civil Aspects) Act, Cap. 12.17;

“custody” means the physical or legal control and responsibility for a child whether joint or individual, including providing for the normal daily requirements relating to the care and development of the child;

“Divorce Act” means the Divorce Act, Cap. 12.03;

“Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act” means the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act, Cap. 3.11;

“father” means a biological or adoptive father;

“guardian” means a person having guardianship;

“guardianship” means the legal responsibility and authority for making decisions with respect to a child;

“legal custody” means, as respects a child, so much of the parental rights and duties as relate to the person of the child including the place and manner in which his or her time is spent;

“Magistrate’s Code of Procedure Act” means Magistrate’s Code of Procedure Act, Cap. 3.17;

“maintenance” includes making financial provision for education and medical care;

- “maintenance order” means an Order made under this Act or any other enactment for the maintenance of a child;
- “mediator” means a neutral third party who conducts mediation;
- “Minister” means the Minister responsible for Social Services;
- “mother” means a biological or adoptive mother;
- “parent” means a mother or a father;
- “person” includes any school or institution;
- “Registration of Births, Deaths and Marriages Act” means the Registration of Births, Deaths and Marriages Act, Cap. 12.13;
- “stranger” means a person who, being neither the mother nor father of a child, has in the opinion of the Court a sufficient interest in the child;
- “upbringing” includes education;
- “West Indies Act” means the West Indies Act, Cap. 1.01.

## PART II

### GENERAL PRINCIPLES

#### **Purpose of this Act.**

3. (1) The purpose of this Act is to—
- (a) promote children’s welfare and best interests, and facilitate their development, by helping to ensure that appropriate arrangements are in place for their guardianship and care; and
  - (b) recognise certain rights of children.
- (2) To that end, this Act—
- (a) defines and regulates—
    - (i) parents’ duties, powers, rights, and responsibilities as guardians of their children;
    - (ii) parents’ powers to appoint guardians;
    - (iii) Courts’ powers in relation to the guardianship and care of children;
  - (b) acknowledges the role that other family members may have in the care of children;
  - (c) respects children’s views;
  - (d) encourages agreed arrangements for, and provides for the resolution of disputes about, the care of children;
  - (e) implements in Saint Christopher and Nevis the provisions of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women relating to children.

**Child's welfare and best interests to be paramount.**

4. (1) The welfare and best interests of a child must be the first and paramount consideration—

- (a) in the administration and application of this Act, for example, in proceedings under this Act; and
- (b) in any other proceedings involving the guardianship of, or the role of providing day-to-day care for, or contact with, a child.

(2) The welfare and best interests of a child in his particular circumstances must be considered.

(3) A parent's conduct may be considered only to the extent (if any) that it is relevant to the child's welfare and best interests.

(4) For the purposes of this section, and regardless of a child's age, it must not be presumed that placing the child in the day-to-day care of a particular person will, because of that person's gender, best serve the welfare and best interests of the child.

(5) In determining what best serves the child's welfare and best interests, a Court or a person must take into account—

- (a) the principle that decisions affecting the child should be made and implemented within a time frame that is appropriate to the child's sense of time; and
- (b) any of the principles specified in section 5 that are relevant to the welfare and best interests of the particular child in his particular circumstances.

(6) Subsection (5) does not limit section 6 or prevent a Court or person from taking into account other matters relevant to the child's welfare and best interests.

(7) This section does not limit the provisions of the Child Abduction Convention (International Civil Aspects) Act or any other enactment on international child abduction.

**Principles relevant to child's welfare and best interests.**

5. The principles referred to in section 4(5)(b) relating to a child's welfare and best interest are as follows—

- (a) the child's parents and guardians should have the primary responsibility, and should be encouraged to agree to their own arrangements, for the child's care, development, and upbringing;
- (b) there should be continuity in arrangements for the child's care, development and upbringing, and the child's relationships with his or her family should be stable and ongoing, in particular, the child should have continuing relationships with both of his or her parents and guardians;
- (c) the child's care, development, and upbringing should be facilitated by ongoing consultation and co-operation among and between the child's parents and guardians and all persons exercising the role of providing day-to-day care for, or entitled to have contact with the child;
- (d) relationships between the child and members of his family should be preserved and strengthened, and those members should be encouraged to participate in the child's care, development and upbringing;

- (e) the child's safety must be protected and, in particular, he or she must be protected from all forms of violence whether by members of his family or by other persons.

**Child's views.**

6. (1) This section applies to proceedings involving—
- (a) the guardianship of, or the role of providing day-to-day care for, or contact with, a child; or
  - (b) the administration of property belonging to, or held in trust for a child; or
  - (c) the application of the income of property of that kind.
- (2) In proceedings to which subsection (1) applies—
- (a) a child must be given reasonable opportunities to express views on matters affecting the child; and
  - (b) any views the child expresses either directly or through a representative shall be taken into account.

**Equality of parental rights.**

7. (1) In relation to the custody or upbringing of a child, and in relation to the administration of any property belonging to or held in trust for a child or the application of income of any such property, both parents shall have the same rights and authority and the rights and authority of both parents shall be equal and exercisable by either parent without the other.

(2) A private agreement made by a father or mother to give up in whole or in part, in relation to any child of his or hers, the rights and authority referred to in subsection (1) shall be unenforceable.

(3) Where a child's father and mother disagree on any question affecting the child's welfare, either of them may apply to the Court for its direction, and subject to subsection (4), the Court may make such Order regarding the matters in dispute as it may think proper.

(4) Subsection (3) does not authorise the Court to make an Order regarding the custody of a child or the right of access to the child by the child's father or mother.

(5) An Order made under subsection (3) may be varied or discharged by a subsequent Order made on the application of either parent or, on the application of any other person having the custody of a child or, after the death of either parent on the application of a guardian under this Act.

(6) Nothing in this section shall affect the operation of any written law requiring the consent of both parents in a matter affecting a child.

**Guardianship of children.**

8. (1) Unless the Court otherwise orders the following are joint guardians of a child—
- (a) the father of the child;
  - (b) the mother of the child.



(2) Subject to the provisions of this Act, the mother of a child born out of wedlock shall be the sole guardian of the child unless and until the paternity of the child has been registered pursuant to the Registration of Births, Deaths and Marriages Act.

### PART III

#### APPOINTMENT, REMOVAL AND POWERS OF GUARDIAN

##### **Rights of surviving parent as to guardianship.**

**9.** On the death of a parent of a child the surviving parent shall, subject to the provisions of this Act, and the Divorce Act if applicable, be the guardian of the child either alone or jointly with any testamentary guardian appointed by the deceased parent subject to Section 10(1), and—

- (a) where no guardian has been appointed by the deceased parent; or
- (b) in the event of the death or refusal to act of the testamentary guardian or guardians appointed by the deceased parent,

the Court may, if it thinks fit, appoint a guardian to act jointly with the surviving parent.

##### **Rights of father and mother to appoint testamentary guardians.**

**10.** (1) The father or the mother of a child may by deed or will appoint a person to be testamentary guardian of the child after his or her death.

(2) If the father of a child who was born out of wedlock desires to appoint a testamentary guardian of such child under subsection (1), it shall not be necessary for the father to first obtain a Custody Order with respect to the child.

(3) A testamentary guardian appointed under subsection (1) shall act jointly with the surviving father or mother, as the case may be, unless the father or mother who remains alive objects to his or her acting.

(4) If, pursuant to subsection (3), the father or mother as the case may be so objects, or if the guardian so appointed considers that the father or mother is unfit to have the custody of the child, the father or mother, as the case may be, or guardian may apply to the Court, and the Court may either—

- (a) make an Order that the father or mother shall remain the sole guardian; or
- (b) make an Order that the guardian so appointed—
  - (i) shall act jointly with the father or mother; or
  - (ii) shall be the sole guardian of the child.

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

(6) If under section 9 a guardian has been appointed by the Court to act jointly with the surviving parent, he shall continue to act as guardian after the death of the surviving parent; but if the surviving parent has appointed a testamentary guardian, the guardian appointed by the Court shall act jointly with the testamentary guardian appointed by the surviving parent.

**Power of Court to appoint guardian for child having no parent, etc.**

11. Where a child has no parent, no guardian and no other person having parental rights with respect to him or her, the Court on application of an interested party, may, if it thinks fit, appoint the applicant to be the guardian of the child.

**Power of Court to remove or replace guardian.**

12. The Court at any time may, in its discretion, on being satisfied that it is for the welfare of the child, remove from his or her office a testamentary guardian or a guardian appointed or acting by virtue of this Act, and may also, if it considers it to be for the welfare of the child, appoint another guardian in place of the guardian so removed.

**Power of Court to appoint temporary guardian.**

13. (1) The Court may on the application of the father or the mother or a permanent guardian of a child, appoint a temporary guardian—

- (a) in the case of an illness of the father or the mother or guardian of a child;
- (b) in the case of debilitating injury to the father or the mother or guardian of a child;
- (c) where the father or the mother or the guardian of a child has to be a way from the jurisdiction for an extended period of time; or
- (d) where the child will be in another jurisdiction away from the father or the mother or the guardian for an extended period of time.

(2) The care and control exercised by a temporary guardian is to be jointly exercised with the mother or father or permanent guardian of a child.

**Disputes between joint guardians.**

14. Where two or more persons act as joint guardians of a child and they are unable to agree on any question affecting the welfare of the child, any of them may apply to the Court for its direction, and the Court may make such Order regarding the matters in dispute as it may think proper.

**Powers of guardians.**

15. (1) Subject to subsection (2), a guardian under this Act, besides being guardian of the person of the child, shall have all rights, powers, and duties of a guardian of the child's estate, including in particular the right to receive and recover in his or her own name for the benefit of the child, property of what ever description and wherever situated which the child is entitled to receive or recover.

(2) Nothing in subsection (1) shall restrict or affect the powers of the Court to appoint a person to be, or to act as, the guardian of a child's estate either generally or for a particular purpose.

## PART IV

### ORDERS FOR CUSTODY, ACCESS AND MAINTENANCE

#### **Orders for custody and maintenance on application of parent or interested party.**

**16.** (1) The Court may on the application of the father or mother of a child (who may apply without next friend) or of an interested party make such Order regarding—

- (a) the legal custody of the child; and
- (b) the right of access to the child by the applicant or of any other person,

as the Court thinks fit having regard to the welfare of the child and to the conduct and wishes of the mother or father or of the interested party.

(2) Where the Court makes an Order under subsection (1) giving the legal custody of the child to any person, the Court may make a further Order requiring payment to that person by the parent or either of the parents excluded from having that custody, of such periodical sum towards the maintenance of the child in accordance with section 20.

(3) An Order may be made under subsection (1) notwithstanding that the parents of the child are then residing together, but—

- (a) no such Order shall be enforceable and no liability thereunder shall accrue, while they are residing together; and
- (b) any such Order shall cease to have effect if for a period of six months after it is made they continue to reside together:

Provided that, unless the Court in making the Order directs otherwise, paragraphs (a) and (b) of this subsection shall not apply to any provision of the Order giving the legal custody of the child to a person other than one of the parents or with respect to a child of whom legal custody is so given.

(4) An Order under subsection (1) or (2) may be varied or discharged by a subsequent Order made on the application of either parent or after the death of either parent on the application of any guardian under this Act, or on the application of any other person having the custody of the child by virtue of an Order under subsection (1).

(5) Notwithstanding subsection (2), the Court may without determination of any issue relating to custody or right of access to the child make a Maintenance Order under this section in accordance with section 20.

(6) Upon any Order or appointment or revocation being made under this section by the Court, the Court may also Order the child to be delivered by any person to the person appointed to have custody.

(7) Nothing in this section shall apply in respect of children who are Wards of the State.

#### **Orders for custody and maintenance where person is guardian to exclusion of surviving parent.**

**17.** (1) Where the Court makes an Order under section 10(4) that a person shall be the sole guardian of a child to the exclusion of his mother or father, the Court may—

- (a) make such Order regarding—
  - (i) the legal custody of the child; and

- (ii) the right of access to the child of his mother or father,  
as the Court thinks fit having regard to the welfare of the child; and
- (b) make a further Order requiring the mother or the father to pay to the guardian a periodical sum towards the maintenance of the child in accordance with section 20.

(2) The powers conferred by subsection (1) may be exercised at any time and include power to vary or discharge any Order previously made under those powers.

**Orders for custody and maintenance where joint guardians disagree.**

**18.** The powers of the Court under section 14 shall, where one of the joint guardians is the mother or the father of the child, include power—

- (a) to make such Order regarding—
  - (i) the legal custody of the child; and
  - (ii) the right of access to the child of his mother or father, or of any person who has treated the child as a child of his family,  
as the Court thinks fit having regard to the welfare of the child;
- (b) to make an Order requiring the mother or the father to pay a periodical sum towards the maintenance of the child in accordance with section 16;
- (c) to vary or discharge any Order previously made under that section.

**Further provisions relating to Orders for custody.**

**19.** (1) An Order shall not be made under section 16(1), 17(1)(a) or 18(a) giving the legal custody of a child to more than one person, but where the Court makes an Order under one of those sections giving the legal custody of a child to a person, it may order that—

- (a) a parent of the child who is not given the legal custody of the child shall, as the Court may specify, retain all or such of the parental rights and duties comprised in legal custody, other than the right to the care and control of the child; and
- (b) such parent shall have those rights and duties jointly with the person who is given the legal custody of the child.

(2) Where the Court makes an Order under section 16(1), 17(1)(a) or 18(a) the Court may direct that the Order, or any provision thereof as the Court may specify, shall not have effect until the occurrence of an event specified by the Court or the expiration of a period so specified.

(3) Pursuant to subsection (2), where the Court has directed that the Order or any provision thereof shall not have effect until the expiration of a specified period, the Court may, at any time before the expiration of the period, direct that the Order, or any provision thereof, shall not have effect until the expiration of such further period as the Court may specify.

**Maintenance of Children Act to apply in making a Maintenance Order.**

**20.** A Maintenance Order made in respect of a child under this Act shall be made in accordance with the Maintenance of Children Act and in the same manner as if it were a Maintenance Order made under the Maintenance of Children Act and shall

have effect as if made under the said Act and may be varied and discharged in the same manner and may also be enforced in the same manner as an Order made under the said Act.

#### **Civil enforcement of custody rights.**

**21.** (1) Where an Order is made by the Court under this Act awarding a person custody of a child, a copy of the Order may be served on any person in whose care and control the child may for the time being be, and thereupon the provisions may, without prejudice to any other remedy open to the person given custody, be enforced as if it were an Order of the Court requiring the person so served to give up the child to the person given custody.

(2) Where custody of a child is awarded to a person by an Order made or enforceable under this Act and the person is denied the exercise of custody, the Court may, on an *ex parte* application for the production of a child, order that the child be removed by a social worker accompanied by a police officer and taken to the person awarded custody.

(3) For the purposes of locating and removing a child in accordance with an Order under subsection (1), a social worker accompanied by a police officer may enter and search any place where he has reasonable and probable grounds for believing the child may be.

(4) A person who denies the exercise of custody to a person who is awarded custody by an Order made or enforceable under this Act commits an offence and is liable on conviction to a fine of ten thousand dollars or to imprisonment for a term not exceeding one year.

#### **Refusal of access.**

**22.** A person having the care and control or custody of a child who, contrary to an Order of the Court that has taken effect, refuses another person who has access to that child or who prevents that person from exercising such access or such parental rights and duties, commits an offence and is liable on conviction to a fine of one thousand dollars or to imprisonment for a term not exceeding three months.

## PART V

### SERVICES OF MEDIATORS AND FAMILY EXPERTS

#### **Maintenance of list of certified mediators.**

**23.** (1) The Minister shall maintain a list of certified mediators.

(2) The list shall show the first and last name, date of birth, the identification of the other profession of the mediator, his professional address and his academic title.

(3) The list of certified mediators shall be published in the *Gazette* or electronically in an appropriate way.

#### **Qualifications of certified mediators.**

**24.** A certified mediator shall include the following persons—

- (a) psychotherapists;

- (b) clinical Psychologists and Health Psychologists;
- (c) lawyers;
- (d) notaries;
- (e) judges;
- (f) State Prosecutors;
- (g) consultants;
- (h) social workers; or
- (i) trained and graduate school teachers,

with practical experience in family matters or must have a degree or extensive experience and training in social work, mental health matters, behavioural or social sciences or any other equivalent qualification.

#### **Confidentiality and secrecy.**

**25.** (1) Subject to the applicable law or an agreement between the parties a mediator is obligated to maintain secrecy about the facts which he has become aware of in the course of the mediation or which have otherwise become known to him.

(2) A mediator shall deal with documents provided to him in the course of the mediation in a confidential manner.

(3) Subsections (1) and (2) apply to the supporting staff of the Mediator as well as to persons who act for a Mediator, under his direction in the course of a mediation.

(4) A person who breaches this section commits an offence and is liable on conviction to a fine of one thousand dollars.

#### **Exclusion of liability.**

**26.** A Mediator, the supporting staff of the Mediator as well as the persons who act for a Mediator shall not be liable to any party for any act or omission in connection with any arbitration conducted under this Act, except that they may be liable for the consequences of conscious and deliberate wrongdoing.

#### **Services of persons other than social workers may be used.**

**27.** (1) Where in any proceedings under this Act the Court requires the services of a social worker, probation officer or family law expert, the Court may nonetheless utilize the services of any person whose qualifications are at least equivalent to that of a probation officer, or who in the opinion of the court is qualified as a family law expert.

(2) A person, not being a public officer, whose services are utilized by the Court under subsection (1) shall enjoy the same protection as a probation officer.

#### **Mediation.**

**28.** (1) The Court may refer any proceedings commenced pursuant to this Act to mediation.

(2) Parties to the proceedings may notify the Court that they wish to have their matter referred to mediation and upon receipt of this notification the Court shall make a Mediation Order referring the matter to mediation.

(3) A report shall be made by the Mediator to the Court as to whether or not the mediation resulted in an agreement.

(4) Where a Mediation Order is made pursuant to subsection (1) or (2) and the mediation parties referred to mediation reach a Mediation Agreement, the mediator shall reduce the Mediation Agreement into writing in the prescribed form and the mediation parties shall sign the Mediation Agreement.

(5) Where a Mediation Agreement has been concluded pursuant to subsection (4), the Mediator shall file the Mediation Agreement with the Court within seven days and within fourteen days of the date of filing the Mediation Agreement, the Court shall fix a date for further hearing of the matter and make an Order.

(6) Where a Mediation Order is made pursuant to subsection (1) or (2) and the mediation parties referred to mediation do not reach a Mediation Agreement, the Mediator shall refer the matter back to the Court.

## PART VI

### ENFORCEMENT

#### **Order restraining harassment.**

**29.** On application, the Court may—

- (a) make an Order restraining a person from molesting, annoying, harassing, communicating or attempting to molest, annoy, harass or communicate with the applicant or a child in the lawful custody of the applicant or both the applicant and child; and
- (b) require a person named in an Order under paragraph (a)—
  - (i) to enter into a recognizance, with or without sureties, or to post a bond; and
  - (ii) to report to the Court or a person designated by the Court, at the times and places and for the period of time the Court directs.

#### **Order prohibiting interference with child.**

**30.** Where a Court makes a Custody Order or a Custody Order is enforceable by the Court, the Court may—

- (a) order that a person must not enter the premises, including the premises the person owns or has a right to possession of, where the child resides from time to time;
- (b) order that a person must not make contact or endeavour to make contact with or otherwise interfere with either the child or a person who has custody of or access to the child; or
- (c) if the Court concludes that the person named in the Custody Order may not comply with an Order under paragraph (a) or (b), the Court may further order that the person—
  - (i) to enter into a recognizance, with or without sureties, in any reasonable amount that the Court thinks necessary;

- (ii) to report to the Court or person designated by the Court for a period of time, and at the times and places, as the Court considers necessary and reasonable; or
- (iii) to deliver up to the Court or a person designated by the Court, any documents that the Court thinks fit.

### **Wards of the Court.**

**31.** (1) Subject to this section no child shall be made a ward of the Court except by virtue of an Order to that effect made by the Court.

(2) Where an application is made in respect of a child, the child shall become a Ward of the State on the making of the application, but shall cease to be a ward of the Court at the expiration of such period as may be specified in the Order, unless within that period another application is made in relation to the Order.

(3) The Court may, either upon an application in that behalf or without such an application, order that any child who is for the time being a ward of the Court shall cease to be a ward of the Court.

## PART VII

### JURISDICTION, PROCEDURE, APPEALS AND REMOVAL OF PROCEEDINGS

#### **Courts having jurisdiction under the Act.**

**32.** (1) Subject to the provisions of this section, “the Court” for the purposes of this Act means—

- (a) the High Court; or
- (b) the Magistrate’s Court.

(2) A Magistrate’s Court shall have no jurisdiction to entertain any application in respect of a child—

- (a) where proceedings relating to or affecting the child are pending in the High Court;
- (b) where an Order of the High Court relating to the custody or guardianship of, or access to, the child is in force;
- (c) where the child is a Ward of the State.

(3) In any proceedings in which any question of guardianship, custody, or access arises as an ancillary matter any of the said Courts shall have jurisdiction.

#### **Procedure.**

**33.** Proceedings in a Magistrate’s Court under this Act may be taken in the manner provided for in the Magistrate’s Code of Procedure Act and except as provided for or varied by this Act, such procedure, including the computation of and other matters with respect to costs shall be as near as may be according to the procedure under the Magistrate’s Code of Procedure Act, provided that at least seven days shall have elapsed between the service of a summons on a defendant and the commencement of the hearing of the matter that requires the adjudication of the Magistrate’s Court.



**Rules of Court.**

**34.** Rules may be made in the manner prescribed under the West Indies Act or the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act relating to the procedure of the High Court under this Act.

**Removal of proceedings.**

**35.** (1) An application which has been made under this Act to the Magistrate's Court, may, at the instance of any party to the application, be removed to the High Court by Order and shall there continue as if it had been properly and duly commenced in that Court on such terms as to costs as are specified in the Order.

(2) Where an application is made to the Magistrate's Court under this Act, and the Magistrate's Court considers that the matter is one which would more conveniently be dealt with by the High Court, the Magistrate's Court may refuse to hear the application and may make an Order that the application be made to the High Court.

**Appeals.**

**36.** (1) Subject to section 35 an appeal shall be to the Court of Appeal from any Judgment or Order of the High Court or Magistrate's Court under this Act.

(2) An appeal under this section shall be brought before the expiration of sixty days from the Judgement or Order appealed against unless the Judge or Magistrate at the time of making the Order or at any subsequent time or the Court of Appeal may enlarge the time.

(3) A notice of appeal under this section shall not operate to stay the Judgment or Order appealed against, save that a Judge of the Court of Appeal may stay execution of the Order appealed against on such conditions, if any, as may be appropriate.

(4) Save as otherwise provided in this section the provisions of the West Indies Associated States Supreme Court Order, the Eastern Caribbean Supreme Court Civil Procedure Rules, and the Court of Appeal Rules, apply, where appropriate, to appeals under this section from a Judgment or Order of the High Court or Magistrate's Court and the provisions of the Magistrate's Code of Procedure Act apply, where appropriate, to appeals under this section from an Order of a Magistrate's Court.

## PART VIII

## MISCELLANEOUS PROVISIONS

**Savings for powers of the High Court.**

**37.** Nothing in this Act shall restrict or affect the jurisdiction of the High Court to appoint or remove guardians or otherwise in respect of children.

**Electronic documents.**

**38.** Where a document, record or information is required or permitted under this Act to be in writing, that requirement, permission or description may be met by information in the form of an electronic record.

**Regulations.**

**39.** The Minister may make Regulations and prescribe forms for carrying into effect the provisions of this Act.

**Transitional and savings.**

**40.** (1) An Order or other thing made, done or having effect under or for the purposes of a written law repealed by this Act and in force immediately before the commencement of this Act shall be deemed to have been made or done under or for the purposes of the corresponding written law in this Act.

(2) An application made pursuant to a written law repealed by this Act and pending immediately before the commencement of this Act shall be continued to conclusion as if the written law under which it was brought had not been repealed.

(3) So much of any document as refers expressly or by implication to any written law repealed by this Act shall, if and so far as the nature of the subject matter of the document permits, be construed as referring to this Act or the corresponding written law therein, as the case may require.

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