

STATUTORY INSTRUMENTS

S.I. No 5 of 1998

**Guardianship of Children (Statutory Declaration)
Regulations, 1998**

(Pn 4952)

SCHEDULE
Statutory declaration of Father and Mother in Relation to
Joint Guardianship of Child/Children

MAKING THIS DECLARATION WILL SERIOUSLY AFFECT THE LEGAL POSITION OF BOTH PARENTS. IT IS ADVISABLE TO OBTAIN LEGAL ADVICE BEFORE MAKING THIS DECLARATION.

THIS DECLARATION IS AN IMPORTANT DOCUMENT AND ON COMPLETION SHOULD BE KEPT IN A SAFE PLACE.

In the matter of a declaration under paragraph (e) of section 2(4) (inserted by the Children Act, 1997) of the Guardianship of Infants Act 1964.

We

(father's name)

of _____
(father's address)

and

(mother's name)

of _____
(mother's address)

do solemnly and sincerely declare and say as follows:

1. We have not married each other.

2. We are the father and mother

of _____
(child's name)

who was born on the _____ day
of _____ 19 _____

3. We agree to the appointment of

_____ *(father's name)*

as a guardian of _____ (*child's name*)

4. We have entered into arrangements regarding the custody of [and access to]* _____ (*child's name*)

[**Strike out as necessary*]

We make this solemn declaration conscientiously believing the same to be true by virtue of the Statutory Declarations Act 1938 and pursuant to paragraph (e) of section 2(4) (inserted by the Children Act, 1997) of the Guardianship of Infants Act 1964.

Signed _____ (*father*)

Signed _____ (*mother*)

Declared before me by _____ and _____ who are personally known to me

or who are identified to me by _____ who is personally known to me)

at _____

this _____ day of _____ 20 _____

(Signature of practicing solicitor/Peace Commissioner/Commissioner for Oaths/Notary Public)

EXPLANATORY NOTE

(this note is not part of the statutory declaration and does not purport to be a legal interpretation)

1. These regulations prescribe the form of the joint statutory declaration to be made by the mother and father of a non-marital child who wish the father to become a guardian of the child jointly with the mother and in accordance with section 2 (4) (inserted by the Children Act, 1997) of the Guardianship of Infants Act, 1964
2. If there is more than one child a separate statutory declaration should be made in respect of each child.
3. In the absence of agreement between the parents of the child concerned in respect of the appointment of the father as a joint guardian of the child, the father has the right to apply to the Court under section 6A of the Guardianship of Infants Act, 1964 to be made a joint guardian.
4. A father who is appointed guardian by virtue of a joint statutory declaration made under section 2 (4) of the Guardianship of Infants Act, 1964 can only be removed as guardian by court order.
5. A child ceases to be subject to guardianship when he or she reaches the age of 18 years or upon the date of his or her marriage.
6. Guardianship is the collection of rights and duties which a parent has in respect of his or her child. It encompassed the duty to maintain and proper care for the child and the right to make decisions about a child's religious and secular education, health requirements and other matters affecting the welfare of the child. The exercise of guardianship rights may be agreed between parents. In the event of a dispute arising concerning the exercise of guardianship rights the court may determine the matter on the application of either parental guardian. The right to custody is one of the rights that arises under a guardianship relationship. Custody is the physical day to day care and control of the child. Even where one parental guardian has custody of a child the other parental guardian is generally entitled to be consulted in relation to matters affecting the welfare of the child.

Note: A father's duty to maintain his child and his right to apply to the court for custody of or access to his child is not contingent on his being made a guardian.

7. The appointment of a natural father as guardian will affect the adoption process.

The information contained in this explanation is not comprehensive.

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