

S.I. No. 5/1998 — Guardianship of Children (Statutory Declaration) Regulations, 1998.

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GUARDIANSHIP OF CHILDREN (STATUTORY DECLARATION) REGULATIONS,
1998.

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1998.

I, JOHN O'DONOGHUE, Minister for Justice, Equality and Law Reform in exercise of the powers conferred on me by paragraph (e) of section 2(4) (inserted by the [Children Act, 1997](#) (No. 40 of 1997)) of the [Guardianship of Infants Act, 1964](#) (No. 7 of 1964) hereby make the following regulations:

1. These regulations may be cited as the Guardianship of Children (Statutory Declaration) Regulations, 1998.
2. These Regulations shall come into operation on 1st day of February, 1998.
3. A statutory declaration referred to in paragraph (e) of section 2(4) (inserted by the [Children Act, 1997](#) (No. 40 of 1997)) of the Guardianship of Infants Act, 1964 (No. 7 of 1964) shall be in the form set out in the Schedule to these Regulations.

SCHEDULE

Statutory Declaration of Father and Mother in relation to Joint Guardianship of Child

THE MAKING OF 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—

_____ of

(father's name)

(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 _____ who was born on day of , 199 .

(child's name)

3. We agree to the appointment of _____ as a guardian of

(father's name)

_____.

(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

_____ who are personally known to me or (who are identified to me by

_____ who is personally known to me at

this day of , 19 .

(Peace Commissioner/Commissioner for Oaths/Notary Public)

GIVEN under my Official Seal, this 14th day of January, 1998.

JOHN O'DONOGHUE,

Minister for Justice, Equality and Law Reform.

EXPLANATORY NOTE.

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 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 joint guardian of the child, the father has a 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 a 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 encompasses the duty to maintain and properly 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 the guardianship relationship. Custody is the physical day to day care and control of a 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.

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