

MINORS ACT

Repealed by Act 2009-24 as from 14.1.2010

Principal Act

Act. No. 1962-07	<i>Commencement</i>	31.5. 1962
	<i>Assent</i>	25.5. 1962

Amending enactments	Relevant current provisions	Commencement date
Acts. 1972-06	ss.25-27	
1974-23	ss.5 and 6	
1976-16	ss.7-24 and 34	
1983-12	s.34	
1983-48	–	

Rules made under s.42 and other powers appear under the title Supreme Court.

English sources

Infant Felons Act 1840 (3 and 4 Vict. c.40)

DERIVATION OF SECTIONS

Section		
1	Act. 1962-07	s.1
2		s.2
3		s.3
4	Act. 1972-06	s.2
5		s.4
6		s.5
7	Act. 1962-07	s.4
8		s.5
9		s.6
10		s.7
11		s.8
12		s.9
13		s.10
14		s.11
15		s.12
16		s.13
17		s.14
18		s.15
19		s.16
20		s.17
21		s.18
22		s.19
23		s.20
24		s.21
25	Act. 1972-06	ss.7(1) and 8(1)
26		s.7(2) - (7)
27		s.8(2) and (3)
28	Act. 1962-07	s.36
29		s.37
30		s.38
31		s.32
32		s.33
33		s.34
34		s.35
35		s.26
36		s.22
37		s.23
38		s.24
39		s.25
40		s.27
41	Act. 1972-06	s.9
42	Act. 1962-07	s.39

ARRANGEMENT OF SECTIONS.**PART I.-PRELIMINARY.**

Section

1. Short title.
2. Interpretation.
3. Jurisdiction.
4. Age of majority.

PART II–DOMICILE.

5. Age at which independent domicile can be acquired.
6. Dependent domicile of person not living with his father.

PART III.–GUARDIANSHIP.

7. Equality of parental rights.
8. Welfare of minor the paramount consideration.
9. Rights of surviving parent as to guardianship.
10. Power to appoint testamentary guardians.
11. Power of court to appoint guardian.
12. Power to remove or replace guardian.
13. Disputes between joint guardians.
14. Powers of guardians.
15. Orders for custody, maintenance, etc.
16. Supervision and committal to institutions.
17. Additional provisions as to supervision orders.
18. Orders for custody and maintenance where person is guardian to exclusion of surviving parent.
19. Orders for custody and maintenance where joint guardians disagree.
20. Orders for maintenance of persons between 18 and 21
21. Enforcement of orders.
22. Application of Act to illegitimate children.
23. Appeals and procedure.
24. Saving for powers of Supreme Court.

PART IV.–WARDS OF COURT.

25. Interpretation of Part IV.
26. Maintenance of wards of court.
27. Supervision of wards of court.

PART V.–MINORS' CONTRACTS.

28. Contracts by minors, except for necessities, to be void.

- 29. No action to be brought on ratification of minor's contract.
- 30. Avoiding contract for payment of loan advanced during minority.

PART VI.—MINORS'SETTLEMENTS.

- 31. Marriage settlements by minors.
- 32. If minor dies under age, appointment or disentailing deed to be void.
- 33. Sanction of Supreme Court.
- 34. Application of Part VI.

PART VII.—ABANDONED CHILDREN.

- 35. Interpretation of Part VII.
- 36. Power of court as to production of minor.
- 37. Power of court to order repayment of costs of bringing up minor.
- 38. Court in making order to have regard to conduct of parent.
- 39. Power of court as to minor's religious education.
- 40. Saving.

PART VIII.—MISCELLANEOUS.

- 41. Consent by persons over 16 to surgical, medical and dental treatment.
- 42. Rules.

AN ACT TO PROVIDE FOR THE GUARDIANSHIP AND CUSTODY OF MINORS, FOR MINORS' SETTLEMENTS, MINORS' CONTRACTS AND FOR MATTERS INCIDENTAL THERETO AND CONNECTED THEREWITH.

PART I.—PRELIMINARY.

Short title.

1. This Act may be cited as the Minors Act.

Interpretation.

2. In this Act, unless the context otherwise requires,—

“maintenance” includes education.

Jurisdiction.

3.(1) Subject to the provisions of this section, “the court” for the purposes of this Act means the Supreme Court or the magistrates’ court.

(2) A court shall have jurisdiction under this Act if the applicant or the respondent or any of the respondents or the minor to whom the application relates resides in Gibraltar.

(3) The magistrates’ court shall not be competent to entertain—

- (a) any application (other than an application for the variation or discharge of an existing order) relating to a minor who has attained the age of sixteen unless the minor is physically or mentally incapable of self-support : or
- (b) any application involving the administration or application of any property belonging to or held in trust, for a minor, or the income thereof.

Age of majority.

4. A person becomes of full age on attaining the age of eighteen:

Provided that deeds, wills and other instruments (not being statutory provisions) made before the 1st day of September 1972 shall be construed as though a person became of full age on attaining twenty-one.

PART II.—DOMICILE.

Age at which independent domicile can be acquired.

5.(1) The time at which a person first becomes capable of having an independent domicile is when he attains the age of sixteen or marries under that age:

Provided that, in the case of a person who immediately before the 1st day of November 1974 was incapable of having an independent domicile, but had then attained the age of sixteen or been married, it is that date.

Dependent domicile of person not living with his father.

6.(1) Where the father and mother of a person incapable of having an independent domicile are alive but living apart

- (a) his domicile is that of his mother if
 - (i) he has his home with her and has no home with his father; or
 - (ii) he has at any time since the 1st day of November 1974 had her domicile by virtue of paragraph (i) and has not since had a home with his father.

(2) Where a person incapable of having an independent domicile had the domicile of his mother by virtue of subsection (1) but she is dead, his domicile is that which she last had, if he has not since had a home with his father.

(3) Nothing in this section prejudices any existing rule of law as to the cases in which a person's domicile is regarded as being, by dependence, that of his mother.

(4) In this section, in its application to a person who has been adopted, references to his father and his mother shall be construed as references to his adoptive father and mother.

PART III.—GUARDIANSHIP.

Equality of parental rights.

7.(1) In relation to the custody or upbringing of a minor, and in relation to the administration of any property belonging to or held in trust for a minor or the application of income of any such property a mother shall have the same rights and authority as the law allows to a father, and the rights and

authority of mother and father shall be equal and be exercisable by either without the other.

(2) An agreement for a man or woman to give up in whole or in part, in relation to any minor child of his or hers, the rights and authority referred to in subsection (1) shall be unenforceable, except that an agreement made between husband and wife which is to operate only during their separation while married may, in relation to a minor child of theirs, provide for either of them to do so; but no such agreement between husband and wife shall be enforced by any court if the court is of opinion that it will not be for the benefit of the child to give effect to it.

(3) Nothing in the foregoing provisions of this section shall affect the operation of any enactment requiring the consent of both parents in a matter affecting a minor or be taken as applying in relation to a minor who is illegitimate.

Welfare of minor the paramount consideration.

8. Where in any proceedings before any court—

- (a) the custody or upbringing of a minor; or
- (b) the administration of any property belonging to or held on trust for a minor, or the application of the income thereof,

is in question, the court, in deciding that question, shall regard the welfare of the minor as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.

Rights of surviving parent as to guardianship.

9.(1) On the death of the father of a minor, the mother, if surviving, shall, subject to the provisions of this Act, be guardian of the minor either alone or jointly with any guardian appointed by the father; and—

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

the court may if it thinks fit, appoint a guardian to act jointly with the mother.

(2) On the death of the mother of a minor, the father, if surviving, shall, subject to the provisions of this Act, be guardian of the minor either alone or jointly with any guardian appointed by the mother; and

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

the court may, if it thinks fit, appoint a guardian to act jointly with the father.

Power to appoint testamentary guardians.

10.(1) The father of a minor may by deed or will appoint any person to be guardian of the minor after his death.

(2) The mother of a minor may by deed or will appoint any person to be guardian of the minor after her death.

(3) Any guardian so appointed shall act jointly with the mother or father, as the case may be, of the minor so long as the mother or father remains alive unless the mother or father objects to his so acting.

(4) If the mother or father so objects, or if the guardian so appointed considers that the mother or father is unfit to have the custody of the minor, the guardian may apply to the court, and the court may either—

- (a) refuse to make any order (in which case the mother or father shall remain sole guardian); or
- (b) make an order that the guardian so appointed—
 - (i) shall act jointly with the mother or father; or
 - (ii) shall be the sole guardian of the minor.

(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 a surviving parent, he shall continue to act as guardian after the death of the surviving parent; but, if the surviving parent has appointed a guardian, the guardian appointed by the court shall act jointly with the guardian appointed by the surviving parent.

Power to court to appoint guardian.

11. Where a minor has no parent, no guardian of the person, and no other person having parental rights with respect to him, the court, on the application of any person, may, if it thinks fit, appoint the applicant to be the guardian of the minor.

Power to remove or replace guardian.

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

Disputes between joint guardians.

13. Where two or more persons act as joint guardians of a minor and they are unable to agree on any question affecting the welfare of the minor, any of them may apply to the court for its direction, and the court may make such order regarding the matters in difference as it may think proper.

Powers of guardians.

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

(2) Nothing in subsection (1) shall restrict or affect the power of the Supreme Court to appoint a person to be, or to act as, the guardian of a minor's estate either generally or for a particular purpose; and subsection (1) shall not apply to a guardian under this Act so long as there is a guardian of the minor's estate alone.

Orders for custody, maintenance, etc.

15.(1) The court may, on the application of the mother or father of a minor (who may apply without next friend), make such order regarding—

- (a) the custody of the minor; and
- (b) the right of access to the minor of his mother or father,

as the court may think fit having regard to the welfare of the minor and to the conduct and wishes of the mother and father.

(2) Where the court makes an order under subsection (1) giving the custody of the minor to any person (whether or not one of the parents), 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 weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of that parent.

(3) An order may be made under subsection (1) or (2) notwithstanding that the parents of the minor 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 three 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) shall not apply to any provision of the order giving the custody of the minor to a person other than one of the parents or made with respect to a minor of whom 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 (before or after the death of either parent) on the application of any other person having the custody of the minor by virtue of an order under subsection (1).

(5) On an application under subsection (1) the court may, in any case where it adjourns the hearing of the application for more than seven days, make an interim order, to have effect until such date as may be specified in the order and containing—

- (a) provision for payment by either parent to the other, or to any person given the custody of the minor, of such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the parent on whom the requirement is imposed; and
- (b) where by reason of special circumstances the court thinks it proper, any provision regarding the custody of the minor or the right of access to the minor of the mother or father;

but an interim order under this subsection shall not be made to have effect after the end of the three months beginning with the date of the order or of any previous interim order made under this subsection with respect to the application, and shall cease to have effect on the making of a final order or on the dismissal of the application.

(6) Where a minor's father and mother disagree on any question affecting his 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 difference as it may think proper.

(7) Subsection (6) shall not authorize the court to make any order regarding the custody of a minor or the right of access to him of his father or mother.

(8) An order under subsection (3) 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 (before or after the death of either parent) on the application of any other person having the custody of the minor.

Supervision and committal to institutions.

16.(1) Where an application made under section 15 relates to the custody of a minor under the age of sixteen, then subject to section 17–

- (a) if by an order made on that application any person is given the custody of the minor, but it appears to the court that there are exceptional circumstances making it desirable that the minor should be under the supervision of an independent person, the court may order that the minor shall be under the supervision of a special institution or a probation officer;
- (b) if it appears to the court that there are exceptional circumstances making it impracticable or undesirable for the minor to be entrusted to either of the parents or to any other individual, the court may commit the care of the minor to a specified institution.

(2) Where the court makes an order under subsection (1)(b) committing the care of a minor to a specified institution the court may make a further order requiring the payment by either parent to that institution while it has the care of the minor of such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of that parent.

(3) In this section “institution” means any place specified by the Governor by order in the Gazette as an institution for the purposes of this section.

Additional provisions as to supervision orders.

17.(1) A supervision order shall cease to have effect when the minor attains the age of sixteen; and where a supervision order is made at a time when the parents of the minor are residing together—

- (a) the order may direct that it is to cease to have effect if for a period of three months after it is made they continue to reside together; and
- (b) the order (whether or not it includes a direction under paragraph (a) above) may direct that it is not to operate while they are residing together.

(2) A supervision order 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 or (before or after the death of either parent) on the application of any other person having the custody of the minor by virtue of an order under section 15(1) or on that of the specified institution or person having the supervision of the minor by virtue of the order.

(3) Before making an order under section 16(1) (b) the court shall inform the specified institution of the court's proposal to make the order, and shall hear any representations from the institution, including any representations as to the making also of an order under section 16(2) for payments to the institution.

(4) In relation to an order under section 16(1)(b) committing the care of a minor to a specified institution or to an order under section 16(2) requiring payments to be made to the institution to whom the care of the minor is so committed, the provisions of sections 15(3) and (4), 20(2), 21 and 23(5) shall apply as if the order under section 16(1) (b) were an order under section 16 giving custody of the minor to a person other than one of the parents (and the specified institution were lawfully given that custody by the order) and any order for payment to the specified institution were an order under section 15 (2) requiring payment to be made to it as a person so given that custody.

(5) While an order under section 16(1)(b) remains in force with respect to a minor, the minor shall continue in the care of the specified institution notwithstanding any claim by a parent or other person.

(6) Each parent or guardian of a minor for the time being in the care of a specified institution by virtue of an order under section 16(1) (b) shall give notice to the institution of any change of address of that parent or guardian and a person who without reasonable excuse fails to comply with this subsection is guilty of an offence and is liable on summary conviction to a fine of £25.

Orders for custody and maintenance where person is guardian to exclusion of surviving parent,

18.(1) Where the court makes an order under section 10(4) that a person shall be the sole guardian of a minor to the exclusion of his mother or father, the court may—

- (a) make such order regarding—
 - (i) the custody of the minor; and
 - (ii) the right of access to the minor of his mother or father, as the court thinks fit having regard to the welfare of the minor; and
- (b) make a further order requiring the mother or father to pay to the guardian such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the mother or father.

(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.

19. The powers of the court under section 13 shall, where one of the joint guardians is the mother or father of the minor, include power—

- (a) to make such order regarding—
 - (i) the custody of the minor; and
 - (ii) the right of access to the minor of his mother or father,

as the court thinks fit having regard to the welfare of the minor;

- (b) to make an order requiring the mother or father to pay such weekly or other periodical sum towards the maintenance of the minor as the court thinks reasonable having regard to the means of the mother or father;
- (c) to vary or discharge any order previously made under that section.

Orders for maintenance of persons between 18 and 21.

20.(1) An order under section 15, 18 or 19 for the payment of sums towards the maintenance of a minor may require such sums to continue to be paid in respect of any period after the date on which he ceases to be a minor but not extending beyond the date on which he attains the age of twenty-one; and any order so made may provide that any sum which is payable thereunder for the benefit of a person who has ceased to be a minor shall be paid to that person himself.

(2) Subject to subsection (3) of this section and to section 22(4) where a person who has ceased to be a minor but has not attained the age of twenty-one has, while a minor, been the subject of an order under this Act the court may, on the application of either parent of that person or of that person himself, make an order requiring either parent to pay—

- (a) to the other parent;
- (b) to anyone else for the benefit of that person; or
- (c) to that person himself,

in respect of any period not extending beyond the date when he attains the age of twenty-one, such weekly or other periodical sum towards his maintenance as the court thinks reasonable having regard to the means of the person on whom the requirement is imposed.

(3) No order shall be made under subsection (2), and no liability under such an order shall accrue, at a time when the parents of the person in question are residing together, and if they so reside for a period of three months after such an order has been made it shall cease to have effect.

(4) An order under subsection (2) may be varied or discharged by a subsequent order made on the application of any person by or to whom payments were required to be made under the previous order.

Enforcement of orders.

21.(1) Where an order made by the magistrates' court under this Act contains a provision committing to any person the legal custody of any minor, a copy of the order may be served on any person in whose actual custody the minor may for the time being be, and thereupon the provision may, without prejudice to any other remedy open to the person given the custody, be enforced under section 43(3) of the Magistrates' Court, Act as if it were an order of the court requiring the person so served to give up the minor to the person given the custody.

(2) Any person for the time being under an obligation to make payments in pursuance of any order for the payment of money under this Act shall give notice of any change of address to such person (if any) as may be

specified in the order, and a person who fails without reasonable excuse to give such a notice is guilty of an offence and is liable on summary conviction to a fine of £25.

(3) Any order of the magistrates' court for the payment of money under this Act may be enforced in like manner as an affiliation order, and the enactments relating to affiliation orders shall apply accordingly with the necessary modifications.

Application of Act to illegitimate children.

22.(1) Subject to the provisions of this section, section 15(1) shall apply in relation to a minor who is illegitimate as it applies in relation to a minor who is legitimate, and references in that subsection, and in any other provision of this Act so far as it relates to proceedings under that subsection, to the father or mother or parent of a minor shall be construed accordingly.

(2) No order shall be made under section 15(2) by virtue of subsection (1) of this section.

(3) For the purposes of sections 9, 10, 11 and 18 a person being the natural father of an illegitimate child and being entitled to his custody by virtue of an order in force under section 15 as applied by this section, shall be treated as if he were the lawful father of the minor; but any appointment of a guardian made by virtue of this subsection under section 10(1) shall be of no effect unless the appoint or is so entitled to the custody of the minor immediately before his death.

(4) No order shall be made under section 20(2) requiring any person to pay any sum towards the maintenance of an illegitimate child of that person.

Appeals and procedure.

23.(1) Subject to subsection (2), where on an application to the magistrates' court under this Act the court makes or refuses to make an order, an appeal shall lie to the Supreme Court.

(2) Where an application is made to the magistrates' court, and the court considers that the matter is one which would more conveniently be dealt with by the Supreme Court, the magistrates' court may refuse to make an order, and in that case no appeal shall lie to the Supreme Court.

(3) The magistrates' court may notwithstanding that it has refused to make an order by reason of the provisions of subsection (2), make an interim order under section 15; but an interim order under this subsection shall not be made so as to have effect after the end of the three months beginning with the date of the order.

(4) No appeal shall lie to the Supreme Court from an interim order made under section 15 or subsection (3) of this section if the appeal only relates to a provision requiring payments to be made towards the maintenance of a minor.

(5) In relation to applications made to the magistrates' court under section 15 for the discharge or variation of an order giving the custody of a minor to a person other than one of the parents or made with respect to a minor of whom custody is so given, rules made under section 69 of the Magistrates' Court Act may make provision as to the persons who are to be made defendants on the application; and if on any such application there are two or more defendants, the power of the court under section 43(1) of the Magistrates' Court Act shall be deemed to include power, whatever adjudication the court makes on the complaint, to order any of the parties to pay the whole or part of the costs of all or any of the other parties.

Saving for powers of Supreme Court.

24. Nothing in this Act shall restrict or affect the jurisdiction of the Supreme Court to appoint or remove guardians or otherwise in respect of minors.

PART IV.—WARDS OF COURT.

Interpretation of Part IV.

25. In this Part—

“the court” means the Supreme Court;

“ward of court” means a ward of the court.

Maintenance of wards of court.

26.(1) Subject to the provisions of this section, the court may make an order—

- (a) requiring either parent of a ward of court to pay to the other parent; or
- (b) requiring either parent or both parents of a ward of court to pay to any other person having the care and control of the ward,

such weekly or other periodical sums towards the maintenance of the ward as the court thinks reasonable having regard to the means of the person or persons on whom the requirement is imposed.

(2) An order under subsection (1) may require such sums as are mentioned in that subsection to continue to be paid in respect of any period

after the date on which the person for whose benefit the payments are to be made ceases to be a minor but not beyond the date on which he attains the age of twenty-one, and any such order may provide that any sum which is payable thereunder for the benefit of that person after he has ceased to be a minor shall be paid to that person himself.

(3) Subject to the provisions of this section, where a person who has ceased to be a minor but has not attained the age of twenty-one has at any time been the subject of an order making him a ward of court, the court may, on the application of either parent of that person or of that person himself, make an order requiring either parent to pay to the other parent, to anyone else for the benefit of that person or to that person himself, in respect of any period not extending beyond the date when he attains that age such weekly or other periodical sums towards his maintenance as the court thinks reasonable having regard to the means of the person on whom the requirement in question is imposed.

(4) No order shall be made under this section, and no liability under such an order shall accrue, at a time when the parents of the ward or former ward, as the case may be, are residing together, and if they so reside for a period of three months after such an order has been made it shall cease to have effect; but the foregoing provisions of this subsection shall not apply to any order made by virtue of subsection (1)(b).

(5) No order shall be made under this section requiring any person to pay any sum towards the maintenance of an illegitimate child of that person.

(6) The court shall have power from time to time by an order under this section to vary or discharge any previous order thereunder.

Supervision of wards of court.

27.(1) Where it appears to the court that there are exceptional circumstances making it desirable that a ward of court should be under the supervision of an independent person, the court may, as respects such period as the court thinks fit, order that the ward be under the supervision of a probation officer; and section 52 of the Matrimonial Causes Act (power of court to provide for supervision of children) shall have effect as if any reference therein to sections 47 to 51 thereof included a reference to this subsection.

(2) The court shall have power from time to time by an order under this section to vary or discharge any previous order thereunder.

PART V.—MINOR'S CONTRACTS.

Contracts by minors, except for necessities, to be void.

28. All contracts, whether by specialty or by simple contract, entered into by minors for the repayment of money lent or to be lent, or for goods supplied or to be supplied (other than contracts for necessities), and all accounts stated with minors are absolutely void:

Provided that this Part shall not invalidate any contract into which a minor may, by any law enter, except such as are voidable.

No action to be brought on ratification of minor's contract.

29. No action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during minority or upon any ratification made after full age of any promise or contract made during minority whether there is or is not any new consideration for such promise or ratification after full age.

Avoiding contract for payment of loan advanced during minority.

30.(1) If any minor who has contracted a loan which is void in law, agrees after he comes of age to pay any money which in whole or in part represents or is agreed to be paid in respect of any such loan, and is not a new advance, such agreement, and any instrument, negotiable or other, given in pursuance of or for carrying into effect such agreement, or otherwise in relation to the payment of money representing or in respect of such loan, is so far as it relates to money which represents or is payable in respect of such loan, and is not a new advance, void absolutely as against all persons whomsoever.

(2) For the purposes of this section any interest, commission or other payment in respect of such loan shall be deemed to be a part of such loan.

PART VI.—MINOR'S SETTLEMENTS.

Marriage settlements by minors.

31. It shall be lawful for a minor, upon or in contemplation of his marriage, with the sanction of the Supreme Court, to make a valid and binding settlement or contract for a settlement of all or any part of his property, or property over which he has any power of appointment, whether real or personal, and whether in possession, reversion, remainder, or expectancy; and every conveyance, appointment, and assignment of such real or persona estate, or contract to make a conveyance, appointment, or assignment thereof, executed by such minor with the approbation of the Supreme Court, for the purpose of giving effect to such settlement, shall be as valid and effectual as if the person executing the same were of the full age of eighteen years:

Provided that this Part shall not extend to powers of which it is expressly declared that they shall not be exercised by a minor.

If a minor dies under age, appointment or disentailing deed to be void.

32. If any appointment under a power of appointment, or any disentailing assurance is executed by any minor tenant in tail under the provisions of this Part, and such minor afterwards dies under age, such appointment or disentailing assurance shall thereupon become absolutely void.

Sanction of Supreme Court.

33. The sanction of the Supreme Court to any such settlement or contract for a settlement may be given upon petition presented by the minor or his guardian in a summary way, without the institution of a suit; and if there be no guardian, the court may require a guardian to be appointed or not, as it shall think fit; and the Supreme Court also may, if it shall think fit, require that any persons interested or appearing to be interested in the property should be served with notice of such petition.

Application of Part VI.

34. Nothing in this Part shall apply to any minor under the age of sixteen years.

PART VII.—ABANDONED CHILDREN.**Interpretation of Part VII.**

35. In this Part—

“parent”, in relation to a minor, includes any person liable at law to maintain such minor or entitled to his custody;

“person” includes any authority, school or institution.

Power of court as to production of minor.

36. Where the parent of a minor applies to the Supreme Court for a writ or order for the production of the minor, and the Supreme Court is of opinion that the parent has abandoned or deserted the minor or that he has otherwise so conducted himself that the Supreme Court should refuse to enforce his right to the custody of the minor, the Supreme Court may in its discretion decline to issue the writ or make the order.

Power of court to order repayment of costs of bringing up minor.

37. If at the time of the application for a writ or order for the production of the minor, the minor is being brought up by another person, the Supreme Court may, in its discretion, if it orders the minor to be given up to the

parent, further order that the parent shall pay to such person the whole of the costs properly incurred in bringing up the minor or such portion thereof as shall seem to the Supreme Court to be just and reasonable, having regard to all circumstances of the case.

Court in making order to have regard to conduct of parent.

38. Where a parent has—

- (a) abandoned or deserted his minor child; or
- (b) allowed his minor child to be brought up by another person at that person's expense, for such a length of time and under such circumstances as to satisfy the Supreme Court that the parent was unmindful of his parental duties,

the Supreme Court shall not make an order for the delivery of the minor to the parent unless the parent has satisfied the Supreme Court that, having regard to the welfare of the minor, he is a fit person to have the custody of the minor.

Power of court as to minor's religious education.

39. Upon any application by the parent for the production or custody of the minor if the Supreme Court is of opinion that the parent ought not to have the custody of the minor and that the minor is being brought up in a different religion from that in which the parent has a legal right to require that the minor should be brought up, the Supreme Court shall have power to make such order as it may think fit to secure that the minor be brought up in the religion in which the parent has a legal right to require that the minor should be brought up.

Saving.

40. Nothing in this Part shall interfere with or affect the power of the Supreme Court to consult the wishes of the minor in considering what order ought to be made, or diminish the right which any minor possesses in law to the exercise of his own free choice.

PART IX.—MISCELLANEOUS.

Consent by persons over 16 to surgical, medical and dental treatment.

41.(1) The consent of a minor who has attained the age of sixteen years to any surgical, medical or dental treatment which, in the absence of consent, would constitute a trespass to his person, shall be as effective as it would be if he were of full age; and where a minor has by virtue of this section given

an effective consent to any treatment it shall not be necessary to obtain any consent for it from his parent or guardian.

(2) In this section “surgical, medical or dental treatment” includes any procedure undertaken for the purposes of diagnosis, and this section applies to any procedure (including, in particular, the administration of an anaesthetic) which is ancillary to any treatment as it applies to that treatment.

(3) Nothing in this section shall be construed as making ineffective any consent which would have been effective if this section had not been enacted.

Rules.

42.(1) The Chief Justice may make rules for the better carrying out of the provisions and purposes of this Act.

(2) Save in so far as rules may be made under this section, the practice and procedure from time to time in force in the High Court in England in relation to the matters contained in this Act shall apply.