

The Guardians and Wards Act, 1890

(ACT NO. VIII OF 1890)

^{1♣}An Act to consolidate and amend the law relating to Guardian and Ward.

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows: -

CHAPTER I PRELIMINARY

Title, extent and commencement

1. (1) This Act may be called the Guardians and Wards Act, 1890.
- (2) It extends to the whole of Bangladesh; and
- (3) It shall come into force on the first day of July, 1890.

[Repealed]

2. [Repealed by section 2 and Schedule of the Repealing Act, 1938 (Act No. I of 1938).]

[Omitted]

3. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

Definitions

4. In this Act, unless there is something repugnant in the subject or context,-

(1) “minor” means a person who, under the provisions of the Majority Act, 1875, is to be deemed not to have attained his majority:

(2) “guardian” means a person having the care of the person of a minor or of his property, or of both his person and property:

(3) “ward” means a minor for whose person or property, or both, there is a guardian:

(4) “District Court” has the meaning assigned to that expression in the Code of Civil Procedure, and includes the High Court Division in the exercise of its ordinary original civil jurisdiction:

(5) “the Court” means-

(a) the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; or

(b) where a guardian has been appointed or declared in pursuance of any such application

(i) the Court which, or the Court of the Officer who, appointed or declared the guardian or is under this Act deemed to have appointed or declared the guardian; or

(ii) in any matter relating to the person of the ward the District Court having jurisdiction in the place where the ward for the time being ordinarily resides; or

(c) in respect of any proceeding transferred under section 4A, the Court of the officer to whom such proceeding has been transferred.

(6) “Collector” means the chief officer in charge of the revenue-administration of a district, and includes any officer whom the Government, by notification in the official Gazette, may, by name or in virtue of his Office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act:

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(8) “Prescribed” means prescribed by rules made by the ³[Supreme Court] under this Act.

Power to confer jurisdiction on subordinate, judicial officers and to transfer proceedings

⁴[4A.(1) The High Court Division may, by general or special order, empower any officer exercising original civil jurisdiction subordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section.

(2) The Judge of a District Court may, by order in writing, transfer at any stage any proceeding under this Act pending in his Court for disposal to

**to such
officers**

any officer subordinate to him empowered under sub-section (1).

(3) The Judge of a District Court may at any stage transfer to his own Court or to any officer subordinate to him empowered under sub-section (1) any proceeding under this Act pending in the Court of any other such officer.

(4) When any proceedings are transferred under this section in any case in which a guardian has been appointed or declared, the Judge of the District Court may, by order in writing, declare that the Court of the Judge or officer to whom they are transferred shall, for all or any of the purposes of this Act, be deemed to be the Court which appointed or declared the guardian.]

CHAPTER II

APPOINTMENT AND DECLARATION OF GUARDIANS

[Omitted]

5. [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

**Saving of
power to
appoint in
other cases**

6. ⁵[* * *] nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of

⁶[* * *] person or property, or both, which is valid by the law to which the minor is subject.

**Power of
the Court to
make order
as to
guardianship**

7. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made-

(a) appointing a guardian of his person or property, or both, or

(b) declaring a person to be such a guardian,

the Court may make an order accordingly ⁷[:

Provided that no person, other than a citizen of Bangladesh, shall be appointed or declared to be a guardian of a minor who is a citizen of Bangladesh.]

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

Persons entitled to apply for order

8. An order shall not be made under the last foregoing section except on the application of-

(a) the person desirous of being, or claiming to be, the guardian of the minor, or

(b) any relative or friend of the minor, or

(c) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or

(d) the Collector having authority with respect to the class to which the minor belongs.

Court having jurisdiction to entertain application

9. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

Form of application

10. (1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,-

(a) the name, sex, religion, date of birth and ordinary residence of the minor;

(b) where the minor is a female, whether she is married, and, if so, the name and age of her husband;

(c) the nature, situation and approximate value of the property, if any, of the minor;

(d) the name and residence of the person having the custody or possession of the person or property of the minor;

(e) what near relations the minor has, and where they reside;

(f) whether a guardian of the person or property, or both, of the minor has been appointed any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment;

(g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result;

(h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both;

(i) where the application is to appoint a guardian, the qualifications of the proposed guardian;

(j) where the application is to declare a person to be a guardian, the grounds on which that person claims;

(k) the causes which have led to the making of the application; and

(l) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses.