

Statutory declaration of father and mother in relation to joint guardianship of a child

This joint statutory declaration must be made by the mother and father of a non-marital child if they wish the father to become a guardian of the child jointly with the mother. If there is more than one child, a separate statutory declaration should be made for each.

If the parents of the child cannot agree about the father's appointment as joint guardian, the father can apply to the court to be made a joint guardian under section 6A of the Guardianship of Infants Act 1964.

A father who is appointed guardian by this joint statutory declaration can only be removed as guardian by court order.

Guardianship is the collection of rights and duties of a parent towards a child. It includes the duty to maintain and properly care for the child, as well as the right to make decisions about a child's religious and secular education, health requirements and other matters affecting the child's welfare. The exercise of guardianship rights may be agreed between parents. If they disagree about the exercise of these rights, either parental guardian may ask the court to decide the matter.

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 about matters affecting the child's welfare.

A father's duty to maintain his child and his right to apply to the court for custody or access to his child does not depend on his being made a guardian.

The appointment of a natural father as guardian will affect any adoption of the child. A child ceases to be subject to guardianship when he reaches the age of 18 or marries.

This declaration will seriously affect the legal position of both parents and it is advisable to obtain legal advice before making it.

This is an important document and should be kept in a safe place when completed.

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 _____ 200 .

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 _____ 200 .

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