



## ZIMBABWE

# ACT

To amend the Guardianship of Minors Act [*Chapter 5:08*] and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament and the President of Zimbabwe.

### 1 Short title

This Act may be cited as the Guardianship of Minors Amendment Act, 2022.

### 2 Amendment of section 2 of Cap. 5:08

Section 2 (“Interpretation”) is amended by the insertion of the following definitions—

““custody”, in relation to a minor, means—

- (a) legal custody arising by virtue of the parents being married to each other or by virtue of an order of separation or divorce; or
- (b) actual custody, where the parents are not married to each other (without derogating from the common law position that minors born out of wedlock are in the custody of the mother);

“guardianship” means a legal right allowing either parent to manage a minor’s affairs including health, education needs, financial security or any welfare needs.”.

### 3 Amendment of section 3 of Cap. 5:08

Section 3 is repealed and substituted by—

#### “3 Exercise of joint guardianship and custody by parents

(1) The parents of a minor, whether married or otherwise, shall exercise their rights of guardianship and custody in consultation with each other:

Provided that where the parents are not living together as man and wife, the custodial parent shall exercise all guardianship rights in relation to the minor in his or her custody, unless the non-custodial parent by virtue of a court order (whether a maintenance order, order of divorce or otherwise) is required to be consulted on any issue in connection with the guardianship of the minor.

(2) In connection with an order of maintenance of a minor (whether or not as part of an order for divorce or separation), the court may expressly give any direction as to the manner in which the joint guardianship is to be shared or exercised.”.

### 4 Amendment of section 4 of Cap. 5:08

Section 4 (“Guardianship and custody of minors”)(1)(b) is amended by the deletion of “the power to consent to a marriage or”.

### 5 Amendment of section 5 of Cap. 5:08

Section 5 (“Special provisions relating to custody of minors”) is amended—

- (a) in subsection (1) by the deletion of “the mother” and the substitution of “either of the parents”;
- (b) by the deletion of subsection (2) and the substitution of—

“(2) Where—

- (a) the parent of a minor (“the custodial parent”) has the sole custody of that minor in terms of subsection (1); and
- (b) the other parent or some other person removes the minor from the custody of the custodial parent or otherwise denies the custodial parent the custody of that minor;

the custodial parent may apply to a children’s court for an order declaring that he or she has the sole custody of that minor in terms of subsection (1) and, upon such application, the children’s court may make an order declaring that the custodial parent has the sole custody of that minor and, if necessary, directing the other parent or, as the case may be, the other person to return that minor to the custody of the custodial parent.”.