

# CUSTODY



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The general practice for determining the custody of a child is as follows:

- (a) The mother of a child will have the first priority right to be given custody in accordance with the Family Act and Islamic Shariah.
- (b) If the Judge is of the opinion that the mother of the child is not suitable by law to be given custody, then reference will be made to the relevant Regulations to determine the person who should be awarded custody of the child.
- (c) If a man is given custody of a female child, such a person shall be one who does not qualify to marry her under Islamic Shariah.
- (d) where more than one person is entitled to the child's custody, and they are in equal degree of relations with the child, the custody of the child shall be entrusted to person who appears to be most compassionate towards the child and who bears the most virtuous of character.
- (e) Best interests of the child must be the priority in entrusting custody of the child according to the provisions of this section.

### **What are the requirements for someone to be given custody of the child?**

For a person to be eligible for custody, that person must be:

- (a) a Muslim;
- (b) of sound mind;
- (c) capable of providing compassion and care necessary for the child's upbringing;
- (d) not involved in the commission of vice acts prohibited in Islamic shariah;
- (e) the person's home must be one that is safe and not susceptible to immoral activities.

## What type of conduct can result in someone losing custody?

You could lose custody of your child if you:

- (a) if the mother has custody and marries a person who is also eligible to marry the child under Islamic Shariah;
- (b) commit vice acts prohibited in Islamic shariah openly;
- (c) if the mother has custody and she moves to a different island that is not her native island without the consent of the father or legal guardian;
- (d) if the mother has custody and she moves to a place that makes it difficult for the father to visit the child;
- (e) commit apostacy; or
- (f) neglect the child or treat the child with cruelty or abusively.

## Can the terms of the duration of custody change?

Custody of the child will be with the person awarded custody until the child is 7 years of age based on the hijri calendar. Should the person holding custody choose to apply to for an extension, the court may grant the custody of a female child until she she completes 11 years of age and for a male child until he completes 9 years of age according to the hijri calendar. Upon expiry of the period of custody, or completion of the requisite age of custody, the child shall have the right to live with either of the parents the child may choose, unless the court has ordered otherwise.