

CYPRUS

**GUARDIANSHIP OF INFANTS AND
PRODIGALS**

CHAPTER 277 OF THE LAWS

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1959

CHAPTER 277.

GUARDIANSHIP OF INFANTS AND PRODIGALS.

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102.

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Short title.

A LAW to PROVIDE FOR THE GUARDIANSHIP OF INFANTS
AND OF PRODIGALS.

[3rd January, 1936.]

1. This Law may be cited as the Guardianship of Infants and Prodigals Law.

Interpre-
tation.

2. In this Law—

“ Court ” means—

(a) in proceedings for the appointment or removal of a guardian, and the custody of, and right of access to, an infant, the President of the District Court or a District Judge of the District Court within the jurisdiction of which an infant or prodigal resides ; and

(b) in all other cases, a member of the District Court within the jurisdiction of which an infant or prodigal resides ;

2 of 11/57.

“ infant ” means a person who has not attained the age of eighteen years ; ^{3 of 41/54.}

Provided that a married woman who has not attained the age of eighteen years shall not be deemed to be an infant for the purposes of this Law ;

“ prodigal ” means a person who by reason of his profuse or wasteful expenditure is unfitted to administer his own property ;

“ property ” includes both movable and immovable property ;

“ ward ” means an infant or prodigal whose person or property is under guardianship in accordance with the provisions of this Law.

3. (1) A guardian of an infant may be guardian of—

Kinds of guardians.

- (a) the person of the infant ;
- (b) the property of the infant ; or
- (c) the person and property of the infant.

(2) A guardian of a prodigal shall be guardian only of the property of the prodigal.

4. The guardian of the person of an infant shall have the custody of the infant, and shall, subject to the extent of the infant's property, be responsible for his support and education.

Duties of guardian of person.

5. (1) A guardian of the property of an infant—

Duties and powers of guardian of property.

- (a) shall accept on behalf of the infant any gift of property made to the infant ;
- (b) shall have the control and management of the property of the infant ;
- (c) shall deal with the property of the infant as carefully as a person of ordinary prudence would deal with his own property ;
- (d) may, subject to the provisions of this Law, institute and defend all proceedings and generally do all acts which are reasonable and proper for the protection, preservation or realization of the property of the infant.

(2) A guardian of the property of an infant may make reasonable provision out of the income of such property for

the support and education of the infant having regard to his station in life:

Provided that no sum exceeding ten pounds per month may be so applied without the leave of the Court.

Father or mother to be guardian, and testamentary guardian.

6. Subject to the provisions of this Law—
- (a) the lawful father of an infant shall be the guardian of the infant's person and property;
 - (b) where an infant has no lawful father living, the mother of the infant shall be the guardian of the infant's person and property;
 - (c) if both the parents of an infant are dead, the testamentary guardian (if any) appointed by the last surviving parent shall be the guardian of the infant's person and property.

Powers of Court to appoint and remove guardians.

7. (1) The Court may at any time, on good cause shown—
- (a) appoint some other person to act as joint guardian of the infant's person and property, or either of them, with the father, mother or testamentary guardian;
 - (b) appoint some other person to be the guardian of the infant's person and property, or either of them, in the place of the father, mother or testamentary guardian;
 - (c) appoint any person to be the guardian of the infant's person and property or either of them in any case in which both parents of the infant have died without appointing a testamentary guardian;
 - (d) appoint any person to be the guardian of the property of a prodigal;
 - (e) define, restrict or extend the power and authority of the guardian of the property of an infant in relation thereto, to such extent as may be necessary for the welfare of the infant;
 - (f) make such order as it thinks fit regarding the custody of the infant and the right of access thereto of either parent;
 - (g) remove from his guardianship any guardian, and appoint another guardian in his place.

(2) In exercising the powers conferred by this section in regard to infants, the Court shall have regard primarily to

the welfare of the infant but shall, where the infant has a parent or parents, take into consideration the wishes of such parent or both of them.

8. Where the Court is of opinion that there is no person suitable and willing to be appointed guardian of the property of an infant, the Court shall declare such infant to be a ward of Court and the Registrar shall have in respect of the property of the infant, the powers of a guardian and shall perform his duties as guardian in such manner as the Court may, subject to any Rules of Court, direct.

Registrar
to be
guardian in
certain cases.
4 of 41/54.

9. (1) Every order appointing a person as a guardian of the property of a prodigal shall operate as prohibiting the prodigal from—

Effect of
appoint-
ment of
guardian of
prodigal's
property.

- (a) suing, defending or compromising any action or other proceeding;
- (b) borrowing or receiving capital money or giving a discharge therefor;
- (c) selling, mortgaging, exchanging or otherwise parting with the possession of any of his immovable property,

without the advice and consent in writing of his guardian.

(2) Every transaction or contract (other than a contract for necessities) entered into by a prodigal in contravention of the provisions of this section shall be null and void, unless the other party thereto had no notice of the appointment of a guardian of the property of the prodigal.

2 of 12/36.

(3) Any prodigal who enters into any transaction or contract in subsection (2) mentioned (other than a contract for necessities) without disclosing to the other party thereto that a guardian of his property had been appointed under this Law shall be guilty of an offence.

Penalty: Imprisonment for three months or a fine of fifty pounds or both.

10. Every order appointing a person as a guardian of the property of a prodigal shall be published in the Gazette and in such other manner, whether by notice in a newspaper or otherwise, as the Court may direct.

Publication
of order
appointing
guardian of
prodigal's
property.

11. The Court may, for the purpose of any proceedings under this Law, direct that any person appearing to have

Production
of infant.

the custody of an infant shall produce the infant in Chambers or at such other place as the Court may appoint, and the Court may make such order for the temporary custody and protection of the infant as it thinks fit.

Placing
infant in
custody of
guardian.

12. Where an infant leaves, or is removed from, the custody of his guardian, the Court may order that he be returned to such custody and for the purposes of enforcing such order may direct an officer of the Court or a police officer to seize the person of the infant and deliver him into the custody of his guardian.

Under order
of Court,
guardian
may support
infant out
of capital.

13. Where—

(a) the income of an infant's property in the hands of the guardian is insufficient for the support or education of the infant; or

(b) money is required for the infant's advancement,

the Court may order that provision for such purpose be made out of the capital of the infant's property, and for such purpose the Court may authorize the sale or mortgage of any part of the infant's property, and give such directions in regard thereto as may be necessary in the interests of the infant.

Guardian of
property
of infant
to furnish
security.

14. The Court may require any guardian of the property of an infant to give security to the satisfaction of the Court and in such sum and form as the Court may determine—

(a) that he will duly perform his duties as guardian;

(b) that he will apply or dispose of the income and property of the infant in accordance with the provisions of this Law or with the directions of the Court;

(c) that he will furnish to the Court a true and just account of his dealings with the property and of his receipts and expenditure with regard thereto, either at times to be fixed by the Court or when called upon so to do;

(d) that he will submit his account for audit to such person as the Court may appoint; and

(e) that he will pay into Court or to such person as the Court may direct any balance certified to be due from him to the infant.

Administra-
tion by
guardian

15. Notwithstanding the provisions of section 14, when the Court has made an order under subsection (3) of

section 46 of the Administration of Estates Law, the guardian to whom the property is transferred shall administer the same in accordance with Rules of Court to be made as provided in section 25 of this Law.

after transfer
of infant's
share.
3 of 11/57.
Cap. 189.

16. If it appears to the Court that a guardian whether appointed by the Court or otherwise, is or may be personally liable for any breach of trust, whether the transaction alleged to be a breach of trust occurred before or after the commencement of this Law, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the Court in the matter in which he committed such breach, then the Court may relieve him either wholly or partly from personal liability for the same.

Power to
relieve
guardian
from
personal
liability.
3 of 11/57.

17. A guardian may, instead of acting personally, employ and pay an agent, whether an advocate, banker, stock-broker or other person, to transact any business or do any act required to be transacted or done in the administration of the infant's property, including the receipt and payment of money, and shall be entitled to be allowed and paid all charges and expenses so incurred, and shall not be responsible for the default of any such agent if employed in good faith.

Power to
employ
agents.
3 of 11/57.

18. A guardian may insure against loss or damage by fire any building or other insurable property of the infant to any amount, including the amount of any insurance already on foot, up to the full value of the building or property, and pay the premiums for such insurance out of the infant's property.

Power to
insure.
3 of 11/57.

19. (1) A guardian of the property of an infant shall not, without an order of the Court to that effect—

Limitation of
guardian's
powers.

- (a) sell, mortgage, exchange or otherwise part with the possession of any property of the infant;
- (b) lease any of the immovable property of the infant for a term exceeding five years;
- (c) purchase immovable property on behalf of the infant; or
- (d) invest money belonging to the infant except on mortgage of immovable property adequately secured.

(2) Any disposal of the property of an infant in contravention of this section may be declared by the Court to be

null and void, and upon such declaration the Court may make such order in relation thereto as may appear requisite for restoring to the infant the property so disposed of.

(3) The Court shall not make any order under subsection (1) of this section unless it is shown to its satisfaction that it is necessary or advisable in the interests of the infant.

Investment
of infant's
property.
4 of 11/57.
Cap. 184.

20. Notwithstanding the provisions of section 19, when the Court has made an order under subsection (3) of section 46 of the Administration of Estates Law, the guardian to whom the property is transferred may, without an order of the Court, invest such property in such manner as may be provided by Rules of Court to be made under section 25 of this Law.

Disputes
between
joint
guardians.

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

Remunera-
tion of
guardian.

22. A guardian may be awarded out of the property of the ward such remuneration as the Court may by order determine.

Proceedings
to be by
application.
5 of 11/57.

23. (1) Unless otherwise provided by any Rules of Court made under the provisions of section 25 of this Law, all proceedings under this Law shall be commenced by application.

(2) Subject to the provisions of subsection (3), applications for the appointment or removal of a guardian may be made by any person who shall satisfy the Court that the application is made *bona fide* with a view to the benefit of the infant or prodigal or to the due and proper administration or protection of the property of such infant or prodigal.

(3) No application for the appointment of a guardian of the property of a prodigal shall be instituted or entertained in any Court unless the applicant shall have obtained, and shall have filed with the application, the written consent of the Attorney-General therefor.

Court may
vary or
rescind
order.

24. The Court may at any time vary or rescind any order made under the provisions of this Law.

25. The Governor, with the advice and assistance of the Chief Justice, may by writing under the hand and the official seal of the Governor and the hand of the Chief Justice make Rules of Court—

Rules of
Court,
6 of 11/57.

- (a) for prescribing the procedure, forms, fees of Court and advocate fees in matters relating to any proceeding under this Law before the Court;
- (b) for requiring guardians, who are not Registrars of the Court, to give security for the due application of an infant's property under their control;
- (c) respecting the safety, custody and investment of an infant's property;
- (d) respecting the remuneration of guardians, and for fixing and regulating the fees to be taken under this Law, and respecting the payment of such remuneration and fees out of the infant's property;
- (e) for dispensing with formal proof of facts in proper cases;
- (f) for facilitating the discharge by the Court of administrative duties under this Law without judicial proceedings and otherwise regulating procedure under this Law and making it simple and inexpensive;
- (g) respecting the suspension or removal of any guardian, and the succession of another person to the office of any guardian who may cease to hold office, and the vesting in such person of any infant's property.
- (h) for the filing and auditing of the accounts of the property of an infant under guardianship;
- (i) for providing that all or any of the powers of the Court in relation to an infant's property may be exercised by the Registrar of the Court; and
- (j) generally for carrying out the objects and provisions of this Law.