

No. 490.

THE GUARDIANSHIP OF INFANTS AND PRODIGALS LAW.
CAP. 102, AND LAWS 41 OF 1954 AND 11 OF 1957.

RULES OF COURT MADE UNDER SECTION 19.

JOHN HARDING,
Governor.

Cap. 102.
41 of 1954.
11 of 1957.

In exercise of the powers vested in me by section 19 of the Guardianship of Infants and Prodigals Law, I, the Governor, with the advice and assistance of the Chief Justice, do hereby make the following Rules:—

PRELIMINARY.

Citation. 1. These Rules may be cited as the Guardianship of Infants' Properties Rules, 1957.

Interpretation. 2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

S.L. Vol. II
page 124,
Gazettes:
Supplement
No. 3:
20.5.1954
21.6.1956.

“ Civil Procedure Rules ” means the Civil Procedure Rules or any rules amending or substituted for the same ;

“ Court ” means a District Court, or a member thereof having jurisdiction, or a Turkish Family Court, as the case may be ;

“ Infant ” means a person who has not attained the age of eighteen years : Provided that a married woman who has not attained the age of eighteen years shall not be deemed to be an infant ;

Cap. 102.
41 of 1954.
11 of 1957.

“ the Law ” means the Guardianship of Infants and Prodigals Law ;

“ office copy ” means a sealed copy or translation of any document lodged, filed or kept in or issued out of a Court registry certified to be a true copy or translation by the Registrar or Assistant Registrar of that Court ;

“ prescribed ” means prescribed by these Rules or any other public instrument ;

“ property ” includes both movable and immovable property ;

“ Registrar ” means the Registrar of a District Court or a Turkish Family Court, as the case may be ;

“ trust funds ” and “ trust property ” mean the funds and property of an infant under guardianship.

Appendix A. (2) A form referred to by number means the Form so numbered in Appendix A to these Rules.

Cap. 1.
30 of 1953.
19 of 1954.
30 of 1954.
42 of 1955.
19 of 1956.

(3) The Interpretation Law shall apply to the interpretation of these Rules as it applies to the interpretation of a Law, and, for the purposes of the said Law, these Rules shall be deemed to be Laws.

Application of Rules
S.L. Vol. II,
page 422.
43 of 1954.

42 of 1954.

3. Notwithstanding the provisions of the Guardianship of Infants and Prodigals Rules, these Rules shall apply to all matters and proceedings under the Law consequential to the making of an order under the provisions of section 46 of the Administration of Estates Law, 1954, whether such proceedings are instituted in the Turkish Family Courts, in the exercise of the powers conferred upon them under sub-section (2) of section 8 of the Turkish Family Courts Law, 1954, or in a District Court.

PART I.—APPOINTMENT OF GUARDIAN AND TRANSFER OF
INFANT'S SHARE.

Mode of making application.
43 of 1954.

4. An application to the Court by an administrator or personal representative, under the provisions of sub-section (1) or (2) (b) of section 46 of the Administration of Estates Law, 1954, for an order to dispose of an infant's share, shall be made by summons in *Form I*, with such variations as circumstances may require.

5. The Court may direct such persons to be served with the summons (Form 1), and such advertisements to be made, as it may think fit. Service of summons.

6.—(1) The summons (Form 1) shall be accompanied by a statement signed by the applicant containing the following particulars :— Statement of particulars.

- (a) the infant's name and date of birth. An official certificate of birth from the appropriate Commissioner shall be attached to the summons. If the infant's name cannot be traced in the Register of Births the fact should be stated in the applicant's affidavit filed under paragraph (2) of this Rule ;
- (b) full particulars of the movable and immovable property falling to the infant as his share in the assets of the estate, with an approximate estimate of the income and capital value thereof ;
- (c) the name and address of the living parent of an infant and/or his nearest relatives ;
- (d) reference to the deceased's estate administration relating to the infant, and the date of the filing and auditing of the final accounts of the administration ;
- (e) if a person is proposed as a guardian, a statement whether it is proposed that such person, if appointed, should be remunerated or not ; and
- (f) any exceptional circumstances specially affecting the administration of the infant's property.

(2) An affidavit by the applicant verifying the statement shall be sufficient *prima facie* evidence of the particulars contained in the statement. Affidavit in support.

(3) The summons shall also be accompanied by an affidavit of some person or persons to the effect that from personal knowledge the proposed guardian is a fit and proper person to be appointed as such : Provided that if the applicant is not the proposed guardian then such evidence may be included in the applicant's statement filed under paragraph (1) of this Rule.

7. No person shall be appointed guardian of an infant's person or property unless— Guardian's consent.

- (a) he attends personally before the Court or Registrar and signifies his consent to such appointment ; or
- (b) his consent in writing, duly attested by a Registrar, certifying officer or mukhtar, is filed in Court.

8. The Registrar shall keep a register in *Form 2* in which every application filed under the Law during a year shall be entered and numbered consecutively. Register of applications.

9.—(1) Every order of a Court directing the transfer of an infant's share and appointing a guardian shall be drawn up in *Form 3*, and entered in a book to be kept for that purpose; and an office copy thereof shall be attached to the file of proceedings. Order to be drawn up.

(2) Office copies of such orders shall be issued to guardians free of charge.

PART II.—REGISTRAR AS GUARDIAN OF INFANT'S PROPERTY.

10.—(1) Where the Court declares an infant to be a ward of Court and the Registrar of the Court has in respect of the infant's property the powers of a guardian, under the provisions of section 7A of the Law, Registrar as guardian.

such Registrar shall, on his ceasing to hold office, cease to be guardian without any formal resignation.

(2) Where the Registrar of the Court is guardian, an infant's property vested in or held by him shall be vested in and held by him under his official title and not in his own name.

(3) Where the Registrar of the Court who is guardian of an infant dies or ceases to hold office, his successor in office shall, unless the Court otherwise directs, become guardian of the infant's property without any order of the Court or formal appointment and the infant's property shall without any assignment or transfer in such a case become vested in the successor as it was vested in his predecessor in office.

Funds and
title deeds.

11. Notwithstanding anything in these Rules contained, where a Registrar of the Court is guardian of an infant's property the trust funds and the title deeds and other documents which are evidence of the title of the guardian to any of the trust property, and all receipts on behalf of the trust shall be dealt with and all payments on behalf of the trust shall be made and accounts shall be kept in such manner as may be directed by the Chief Justice from time to time.

PART III.—ADMINISTRATION OF INFANT'S PROPERTY.

Statement
of infant's
property.

12.—(1) A guardian must, unless in any case the Court considers that it is unnecessary, as soon as may be after his appointment furnish the Court with a complete statement of the infant's property, accompanied with an approximate estimate of the income and capital value of each item.

(2) It shall be the duty of the guardian to give such information to the Court as may be necessary for the purpose of keeping the statement of the infant's property correct for the time being.

Security.

13.—(1) A guardian, if not a Registrar of the Court, must give security to the Court for the due application of the infant's property unless the Court dispenses with security under this Rule.

(2) The Court may, on the appointment of a guardian, or at any time during his continuance in office as guardian, dispense with security on the application either of the person who is to be appointed or is guardian or of any person appearing to the Court to be interested in the infant.

(3) The security must be given by a bond in *Form 4*, or otherwise, as the Court directs, and with such sureties as the Court approves.

(4) If the Court is satisfied that sufficient provision is made for the safety of the capital of the infant's property the amount of the security shall, in ordinary cases, be an amount exceeding by fifty per centum the income of the trust property as estimated by the Court.

(5) The Court may at any time require that the amount or nature of the security given by a guardian under this Rule be varied or that security be given where it has previously been dispensed with and a guardian shall comply with any such requirement.

(6) It shall be a condition of every bond or other form of security given under this Rule that the guardian shall give immediate notice to the Court of the death or insolvency of any of his sureties.

(7) Any bond or other form of security given for the purpose of this Rule may be vacated in such manner and subject to such conditions as the Court may direct.

(8) Where security is not dispensed with the appointment of a person to be guardian shall not take effect until he has given the security required by the Court under this Rule.

(9) Any premium payable by a guardian to any guarantee company on account of his security may, if the Court so directs, be paid out of the trust property.

14.—(1) Subject to the provisions of paragraph (7) of this Rule, when a guardian is appointed a separate account for receipts and payments on behalf of the trust must be kept in the name of the guardian at some bank approved by the Court. Account at bank and custody of documents.

(2) All title deeds and all certificates and other documents which are evidence of the title of the guardian to any of the trust property shall be deposited either with that bank or in such other custody as the Court directs.

(3) The deeds or documents must be deposited in the name of the guardian, and the guardian must give notice to the body or person with whom the deeds or documents are so deposited to allow any person authorized by the Registrar of the Court in writing to inspect them during business hours.

(4) The guardian must deposit with the Court a list of all deeds or documents deposited in any custody in pursuance of this Rule and must give information to the Court from time to time of any variation to be made in the list.

(5) The guardian must, if at any time directed by the Court, give an order to the bank at which the trust account is kept not to pay at any one time any sum over a specified amount out of the trust account except on an order countersigned by the Registrar of the Court.

(6) The Court may give such directions to the guardian as may in the opinion of the Court be necessary or expedient for carrying this Rule into effect and for securing the safety of the infant's property.

(7) Where compliance with the provisions of this Rule would cause special inconvenience or hardship, the Chief Justice in respect of any particular class of trust properties, or a President of a District Court in respect of any particular trust property may, by direction, exempt the guardian of such property or properties from compliance with all or any of the provisions of this Rule.

15. Subject to the provisions of paragraph (7) of Rule 14, a guardian must pay all money coming into his hands on account of his trust without delay to the trust account at the bank, and if he keeps any such money in his hands for a longer time than the Court considers necessary shall be liable to pay interest upon it at such rate not exceeding nine per centum as the Court may fix for the time during which the money remains in his hands. Guardian not to keep money in his hands.

16.—(1) A guardian may at any time request the Court to give him directions as to the infant's property or its administration. Directions to guardians.

(2) The request must be accompanied by a statement of the facts with regard to which directions are required, and by the prescribed fee, where necessary, in respect of a communication from the Court with regard to the administration of the infant's property.

(3) The Court may require the guardian or any other person to attend at chambers if it appears that such an attendance is necessary or convenient for the purpose of obtaining any information or explanation required for properly giving directions or for the purpose of explaining the nature of the directions.

PART IV.—ACCOUNTS AND AUDIT.

17.—(1) Unless otherwise directed by the Court, every guardian to whom an infant's share is transferred in accordance with an order made under the provisions of section 46 of the Administration of Estates Law, 1954— Accounts, audit, and inspection.

- (a) shall, at the end of thirteen months from the date of such order, file in Court accounts in respect of the first twelve months of his administration ; and
- (b) shall thereafter, make up the accounts of his administration annually in respect of the preceding twelve months and file them in Court within one month after the close of such accounting period.

(2) When an account is filed in Court under this Rule the Registrar shall scrutinize such account and if it appears to the Registrar that by reason of improper, unvouched or unjustifiable entries or otherwise such account is not a full and proper account, the Registrar may give written notice to the person filing the account to remedy such defects as there may be within such time as to the Registrar may seem reasonable for the purpose, and on failure to remedy such defects within such time the person having filed such defective account shall be deemed to have failed to file an account within the meaning of paragraph (1) of this Rule.

(3) The Court may, of its own motion, appoint a competent person to examine any accounts filed under this Rule which are complicated or voluminous, and the person so appointed may receive such reasonable remuneration (payable out of the infant's property) as the Court may direct. Such person shall submit his report on the accounts to the Registrar within such time as the Court may direct and the Registrar may take any action thereon as if he had scrutinized the accounts himself.

(4) The Court may for good cause shown abridge or extend the time for such filing of accounts as aforesaid.

(5) Any guardian who has been granted an extension of time to file such accounts as aforesaid and who fails within such extended time to file such accounts shall be deemed to have failed to file an account within the meaning of paragraph (1) of this Rule.

(6) It will be the duty of the Registrar to bring to the notice of the Court the fact that any guardian has failed to file his accounts as required by this Rule.

(7) Such accounts shall be open to the inspection of all persons satisfying the Registrar that they are interested in the administration, on payment of the prescribed fee.

(8) The guardian shall send a copy of the accounts, or if the Court thinks fit, of a summary of the accounts, to such person or persons as the Court thinks proper.

(9) In this Rule the word " accounts " shall mean and include an account of the administration, the vouchers in the hands of the guardian relating thereto, and an affidavit in verification.

Deductions
allowed.

18. A guardian shall, unless the Court otherwise directs, be allowed on the audit of his accounts deductions made on account of his remuneration and other allowances that may be approved by the Court, and also on account of the fees paid by him under these Rules, but shall not be allowed any other deduction, unless the deduction is authorized by the Court in pursuance of the Law or these Rules, or the Court is satisfied that the deduction is justified by the strict necessity of the case.

PART V.—INVESTMENTS.

Authorised
investments.

19.—(1) Subject to any directions of the Court, a guardian may invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following—

- (a) in any securities in which trustees in England are for the time being authorized by the Law of England to invest trust funds ;
- (b) in any securities the interest on which is guaranteed by Government ;