

## No. 32 OF 1935.

A LAW TO PROVIDE FOR THE GUARDIANSHIP OF INFANTS NOT BEING HEIRS UNDER DISABILITY AND OF PRODIGALS. A.D. 1935.  
32 of 1935.

H. R. PALMER,]

[14th November, 1935.

Governor.

BE it enacted:—

1. This Law may be cited as the Guardianship of Infants and Prodigals Law, 1935. Short title.

2. In this Law, unless the context otherwise requires— Interpre-  
“Court” means the District Court within the tation.  
jurisdiction of which an infant or prodigal resides;

“infant” means a person who—

(a) has not attained the age of eighteen years, and

(b) is not an heir under disability as defined in section 1 of the Infants' Estates Administration Law, 1894:

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—

(a) the person of the infant;

(b) the property of the infant; or

(c) the person and property of the infant.

Kinds of guardians.

(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—

(a) shall accept on behalf of the infant any gift of property made to the infant; Duties and powers of guardian of property.

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

- (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.

9. 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.

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

11. 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.

Effect of appointment of guardian of prodigal's property.

Publication of order appointing guardian of prodigal's property.

Production of infant.

Placing infant in custody of guardian.

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

**12. 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.

**13.** 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.

Limitation of guardian's powers.

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

(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 sub-section (1) of this section unless it is shown to its satisfaction that it is necessary or advisable in the interests of the infant.

15. 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.

Disputes  
between  
joint  
guardians.

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

Remunera-  
tion of  
guardian.

17.—(1) All proceedings under this Law shall be commenced by application.

Proceedings  
to be by  
application.

(2) Subject to the provisions of sub-section (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.

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

Court may  
vary or  
rescind  
order.

19. The Governor, with the assistance and advice of the Chief Justice, may by writing under the hand and official seal of the Governor and the hand of the Chief Justice make Rules of Court for regulating the practice (including forms and fees) in respect of any proceeding under this Law before the Court.

Rules of  
Court.

20. This Law shall come into operation on a date to be fixed by notice by the Governor in the *Cyprus Gazette*.

Date of  
coming into  
operation.

*This Law came into operation on 3rd January, 1936.*