

CHAPTER 102.
GUARDIANSHIP OF INFANTS AND PRODIGALS.

GUARDIANSHIP OF INFANTS AND PRODIGALS RULES.

RULES OF COURT MADE UNDER SECTION 19.

1. These Rules of Court may be cited as the Guardianship of Infants and Prodigals Rules.

2. All proceedings under the Law shall be intitled—

“In the matter of the Guardianship of Infants and Prodigals Law, Cap. 102,

and

In the matter of X.Y. of....., an infant (or prodigal, ” as the case may be).

3. Every application under the Law shall be in writing, headed with the words “Application by A.B. of.....” ; it shall set forth clearly the nature of the order sought and cite the section of the Law or rule or enactment on which it is based ; and it shall be accompanied by an affidavit of the facts relied upon.

4. The Registrar of the Court shall fix a day for the hearing of the application, and the applicant shall cause an office copy of the application containing a note of such day, together with an office copy of the affidavit in support thereof, to be served on every person affected thereby and on any other person that the Court or a Judge may direct. But this rule shall not affect the power of the Court or Judge to grant an application ex parte where the circumstances so require.

5. If any person wishes to oppose an application, he shall file an affidavit of the facts on which he relies in opposition, and serve an office copy on the applicant before the day fixed for hearing; but failure to do so shall not preclude the Court from hearing any such person if they so wish.

6.—(1) In the case of an application for the appointment of a guardian, the affidavit shall state—

(a) whether the infant or prodigal has parents, and, if so, give their names and addresses ;

and

(b) whether, in the case of an infant without parents, he has a testamentary guardian, and, if so, give his name and address, and further that the infant is not an heir under disability as defined in section 2 of the Infants’ Estates Administration Law, Cap. 218, or a married woman;

and shall enumerate the facts making the appointment necessary or desirable. [*423]

(2) In the case of an application relating to an infant, the application shall be accompanied by a certificate of birth from the appropriate Commissioner, or, if the infant’s name cannot be traced, his age must be given in the affidavit. And in the case of an application relating to a prodigal, the application shall be accompanied by the written consent of the Attorney-General, as required by section 17 (3) of the Law. And in either case the application shall be

supported by evidence of the fitness of the proposed guardian. This evidence may be embodied in the affidavit mentioned in sub-rule (1) of this rule, if such affidavit is not sworn by the proposed guardian; or it may be embodied in another affidavit, in which case an office copy shall be served with the application. The evidence of fitness shall be to the effect that the deponent has been well acquainted with the proposed guardian for a specified number of years last past; that he has had many opportunities of forming an opinion of the proposed guardian's business habits, integrity and good character; and that in his judgment the proposed guardian is a fit and proper person for appointment.

(3) The following persons shall be served—

(a) the parents (if any) of the infant or prodigal; or

(b) if there are no parents, then the testamentary guardian (if any) of an infant; and

(c) the person (if any) with whom the infant resides or under whose care he is, if he does not reside with his parents or testamentary guardian; and

(d) the infant or prodigal himself, unless service on the infant is dispensed with by the Court or a Judge ; and

(e) such other persons as the Court or a Judge may direct to be served.

(4) If the proposed guardian is a person other than the applicant, his written consent to be appointed must be filed with the application.

7. An order appointing a guardian of a prodigal shall not be issued unless the applicant who obtained it pays into the public treasury five shillings for the publication of the order in the Gazette, and deposits in Court a sum fixed by the Registrar to defray the cost of advertising the order in the manner directed by the Court.

8. The Court or a Judge may order any costs incident to any proceeding to be paid out of the infant's or prodigal's property where it was in his interest and to his benefit.

9. Service under these rules shall be effected in the same manner as service is effected under the rules of court governing civil proceedings, or in such other manner as the Court or a Judge may direct. Originating applications shall be served [*424] in the same way as a writ of summons is served. The applicant in any application shall state thereon an address within the municipal limits of the town in which the Court is situated at which documents intended for him may be left. Likewise a person served with an application who wishes to oppose it shall state on his affidavit of opposition an address within such limits for that purpose. Where any person fails to state such an address, anything intended for him may be filed.

10.—(1) Originating applications shall be charged with a fee of ten shillings, and other proceedings with the fees payable in actions.

(2) The rules of court governing civil proceedings shall apply to matters not provided for by these rules.