

Guardians and Wards Act - Rules Framed by Punjab High Court

PUNJAB

India

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Rule

GUARDIANS-AND-WARDS-ACT-RULES-FRAMED-BY-PUNJAB-HIGH-COURT of 1800

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Guardians and Wards Act - Rules Framed by Punjab High Court Rules Framed by Punjab High Court Under Section 50(1)(j) of the Guardians and Wards Act, 1890 Rules made by the High Court with the approval of the State Government under the power conferred by section 50, sub-section (1), clause (j), of the Guardians and Wards Act, 1890, for the guidance of Courts in carrying out the purposes of the Act.

1. Application for appointment of a guardian shall be in form A.

- Applications for the appointment of a guardian of the person or property, or both, of a minor under section 10 of the Act shall, subject to such variation as the circumstances of each case may require, be in Form A annexed to these rules.

2. Notice required by section 11 shall be in form B.

- The notice required by section 11 of the Act shall be in Form B annexed to these rules.

3. Form and time for filing statement of property and debts. Further statements when to be put in.

- The statement showing the property and the debts of a ward, as required by clause (b) of section 34 of the Act, shall be in Form C annexed to these rules. Only one such statement shall ordinarily be exhibited by the guardian, on or before such date, subsequent to the assumption of guardianship, as the Court may fix, unless for any special reason, to be recorded in writing the Court shall

subsequently think it necessary to call for another statement or statements. The guardian shall, however, inform the Court of any subsequent accrual of property to the minor, e.g., by inheritance, etc., and submit any statement with respect to it that may be called for. The Court shall carefully examine the statements submitted under this rule and pass any further orders that may appear necessary for the proper management of the property.

4. Guardian Certificate, points to be noted thereon.

- When a guardian is appointed under the Act, he should be furnished with a certificate of guardianship, in Form F, and his attention should be drawn in particular to the provisions of sections 26, 27, 28, 29, 32, 33, 35, 36, 39, 44 and 45 of the Act which shall be printed in full on the back of the said certificate. The certificate shall also state any special restrictions imposed by the Court on the powers of the guardian at the time of his appointment.

5. Bonds required from guardian - their forms and amount.

- Except in cases in which, for reasons to be recorded in writing, the Court directs otherwise, every guardian of property appointed by the Court (other than the Collector of the District) shall be required to execute a bond, with or without a surety or sureties as the Court may think fit to direct, in a sum not less than the total estimated value of the said certificate. The certificate shall also state any special restrictions. Bonds shall be in Form D annexed to these rules with such variations or modifications as will suit the circumstances of each case.

6. Time to be fixed for filing bonds. Allowance of Guardians and other orders.

- Orders in respect of (a) the execution, or otherwise, of such bond, and (b) the amount, if any, of the allowance to be paid to the guardian, shall be made by the Court at the time of appointing the guardian. When a bond is required the Court shall fix the time within which such bond is to be furnished and the order of appointment shall be made conditional on furnishing the bond.

7. Entry of application in Register No. 2. Cases in which periodical accounts are to be put in to be entered in Register E.

- (i) Every application for appointment of a guardian shall be entered in Civil Miscellaneous Register No. 2. (ii) Every case, in which a guardian of property is appointed and the guardian is directed to file accounts periodically, shall be entered in register No. XXVI (Form E) and the particulars prescribed therein shall be entered from time to time as soon as orders are passed by the Court, or the particulars are available. Cases should be entered in this register chronologically and an alphabetical index thereof given in the beginning of the register.

8. Accounts should be scrutinised once a year in cases of large income.

- When the annual income of the ward's estate appears likely to exceed Rs. 500, and in other cases if the Court thinks fit to so order, the guardian should be directed to submit to the Court once a year and on a fixed date an account of the income and expenditure of the estate together with a list of the property, movable or immovable, sold or purchased, and of the amounts due to and from the ward. Such account shall be scrutinised by the Judge, who could certify that he had done so and should record such marks thereon as may be necessary.

9. Such cases to be treated as pending - minor to be produced before Court in such cases.

- When a guardian is required to submit yearly accounts to the Court, the case should, until the ward concerned attains his majority, be treated as pending and the ward should be produced before the Court on the dates on which returns have to be furnished by the guardian, such dates to be reckoned as dates of hearing and entered as such in the cause book of the Court.

10. Notice of application under sections 28 and 29 to be given to persons affected by it.

- When an application is made by a guardian for any of the purposes referred to in sections 28 and 29 of the Act, the Court should, before disposing of it, cause notice thereof to be given to such persons, whether relatives of the ward or otherwise connected with him, as the Court may consider to be affected by the application.

11. Annual Inspection of Wards by Courts.

- In the absence of sufficient reason to the contrary, all male wards should be produced before the Court once a year, and the Court should, so far as is possible, examine their physical, intellectual and moral conditions, and ask them whether they have any remarks to make on the subject of the management of their estates. To facilitate this arrangement the Court should maintain a list of all such wards.

12. Inspection of statements and accounts filed by the guardian.

- All statements and accounts submitted by a guardian should be kept with the records of the case to which they relate; and may, with the permission of the Court, be inspected by any person legitimately interested in the same, on payment of the ordinary inspection fee. Such statement and accounts and relevant extracts from Audit Notes and objections together with annotated copies of the same and relevant correspondence on the subject, should be kept on part 'A' of the records.

13. Opening of accounts in approved banks in the name of minors for current expenses. Investment of surplus money in Government securities.

- Where the Court deems it necessary to direct the guardian to open an account in a bank, the account shall be in the name of the minor through his guardian in the Post Office Savings Bank, or in the State Bank of India, or in any other bank approved by the High Court. If after payment of the current expenses of the estate and of the ward's maintenance, there should be any balance, such balance should be invested by the guardian in Government Promissory Notes, Post Office Cash Certificates, or in any other securities mentioned in clauses (a) (b) (c) and (d) of section 20 of the Indian Trusts Act. Note 1. - A list of banks approved by the High Court is supplied to subordinate courts and additions and alterations made therein are communicated from time to time. Note 2. - In order to enable a bank to open an account in the name of a minor through his guardian, an attested copy of the guardianship certificate should be supplied to it for registration.

14.

(i) In cases in which the ward's estate is under the management of Government, in the person of the District Judge, the Collector or other Government officer, surplus moneys may be invested in Government Promissory Notes, purchased through and held in the safe custody of the Reserve Bank of India, in accordance with the procedure laid down in paragraph 110(b) and note 1 to paragraph 101 of Chapter IX of the Government Securities Manual 3rd Edition. The income of the estate required for current expenses of the management of the estate, the maintenance, and education of the ward, should be deposited in the treasury. (ii) The deposit of money in a private bank in the name of the District Judge or other Government officer, as a guardian of a ward's estate, is prohibited, - Vide rule 7 et seq, section V of the Treasury Rules (Punjab).

15. Court may pass order for proper education of the ward in certain cases.

- When it appears to the Court, at the annual inspection of the ward or otherwise, that orders are required as to the education of the ward, the Court should pass such orders as appear to suit the case, regard being had to the present position and future prospects of the ward's family and the intellectual capabilities of the ward himself.

16. Management of Ward's estates to be noted in annual report.

- The management of ward's estates should be specially noted in the Annual Civil Report submitted by each District Judge and detailed mention should be made of the main facts relating to the more important estates. Form A [In the Court of] In the matter of guardianship of son of caste resident of Minor [Court fee]

a	b	c	d	e	f	g	h	i
The name,	Where the	The nature, situation,	The name and	What near	Whether a guardian of	Whether an application	Whether the application is	Where t applicat

sex, minor is and residence relations the person or has at any for the to appoi
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 and age on reverse) person or claiming to of the person or both.
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 make such an what Court
 appointment and with
 what result.

Signature of petitioner or of a person duly authorised by him in this behalf. The above particulars are true to the knowledge of the person making them except as to matters stated on information and belief, and as to those matters he believes them to be true.

1. The guardian proposed in the above application, do hereby declare that I am willing to act as such.

Signature of the person verifying Attested by (i)(ii) Signature of the proposed guardian.

to Form A

1 Details of property belonging to ward (1)(2)(3)c	2 Value (1)(2)(3)&c	3 Names of persons in present possession of the property mentioned in column I (1)(2)(3)&c
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Form B Form of Notice Under Section 11 of Act VIII of 1890 District In the Court of District Judge
 at Present Case No. _____ OF 19 _____. Petitioner Inhabitant of Application for the
 [_____] [Appointment or declaration as the case may be.] of a guardian to the
 [_____] [State whether to the person or the property of the minor, or to both.] of
 _____ a minor inhabitant of _____ Whereas the petitioner
 above-named has applied to be [_____] [Appointed or declared.] the guardian of the
 [_____] [State whether to the person or the property of the
 minor, or to both.] of the aforesaid minor, and the _____ day of _____ 19
 _____ has been fixed for the hearing of the application; notice is hereby given to

[_____] [Name of person in case of notice under clause (a) of section 11 or the 'public' in case of general notice under clause (b).] that if any other relative, friend, kinsman or well-wisher of the aforesaid minor desire to be appointed or declared as guardian of the [_____] [State whether to the person or the property of the minor, or to both.] of the said minor, or desire to oppose the application of the petitioner aforesaid, he should appear personally in the Court on the aforesaid date, and adduce any documentary and oral evidence in support of his claim to such appointment or declaration, or in support of his opposition to the application of the petitioner aforesaid. Given under my hand and the seal of this Court, this day of _____ 19 _____. Form CA - Statement under section 34 showing particulars in regard to immovable and movable property belonging to _____ minor, taken over by _____ appointed as _____ guardian under order of the Court, dated _____ 19 ____.

Serial	IMMOVABLE PROPERTY	MOVABLE PROPERTY	REMARKS						
							Particulars		
Land, building or vacant site.	Particulars (a)	How occupied (b)	Known or supposed value (c)	Profit or rent realizable	Period for which realizable		Household goods or other property Supposed value (a)	Jewels, gold and silver Value (b)	In w custo with who depo

(a) Here state whether land is nahri, chahi or barani, proprietary or occupancy, and as to building, whether kacha or pacca, one-storeyed or double-storeyed, etc. (b) Here state whether cultivated through servants or relatives, or let on rent, or cultivated by tenants, and in case of building whether occupied by minor or family or let on rent, or hire, etc. (c) This will assist the Court in determining the amount of security to be taken from the guardian. Statement showing particulars as to the debts due to, or by the estate of _____ minor, for whose property and person _____ has been appointed or declared guardian by order of Court, dated _____ 19 ____.

Name, parentage and residence of debtor	DEBTS DUE TO THE ESTATE OF THE MINOR	DBTS DUE BY THE ESTATE OF THE MINOR								
Amount of debts originally advanced	Date of original advance	Date by which wholly repayable	Amount of interest or profit realizable	Date on which realizable	Date by which limitation expires	Proof in support of debt (a)	Name, etc., of creditor	Amount received originally	Date of incurring of the debt	Int or pay

(a) Whether registered or mortgaged bond or deed or book account etc. Form D Form of Bond under Section 34 of Act VIII of 1890 Know all men by these presents that I Name of guardian _____ Parentage etc. and the residence of the guardian of _____ of _____ in the

_____ District am held and firmly bound to Name of District Judge or _____, his successors in this office or his or their assigns in the sum of rupees _____ to be paid to the said Name of District Judge _____ District Judge, to his successors in this office or to his assigns and we _____ Name parentage etc. and residence of sureties _____ District are jointly and severally held and firmly bound to the said Name of District Judge _____ or his successors in office or his or their assigns in the sum of Rupees _____ to be paid to the said Name of District Judge _____ or his successors in office or his or their assigns for the payment of which said sum of Rupees _____ to be faithfully and truly made I the above bounden Name of guardian _____ bind myself and my heirs, executors, administrators and representatives and for the payment of the said sum of rupees _____ we the above-bounden Names of sureties _____ and Names of sureties _____ bind ourselves and each of us jointly and severally and one and each of our heirs, executors, administrators and representatives firmly by these present signed by ourselves and sealed with our respective seals this _____ day of _____ 19 _____. Whereas by an order of the court of the District Judge of _____ made on the _____ day of _____ 19 ____ under section 7 of the Guardians and Wards Act (VIII of 1890) the above-named Name of guardian _____ has subject to his entering into a bond in rupees _____ with Number of sureties _____ sureties in the same sum/the sum of Rs. _____ been appointed guardian of the property movable and immovable of Name and parentage minor _____ minor son of Name and parentage of minor _____ and whereas the said Name of guardian _____ has agreed to enter into the above-written bond and the said Name of sureties _____ and Name of sureties _____ have agreed to enter into the above-written bond as sureties for the said Name of guardian _____. Now the condition of the above-written bond is such that if the said Name of guardian _____ do and shall justly and truly account whenever called upon to do so for what he may receive in respect of the property of the said Name of minor _____ and shall carefully observe, perform and obey all orders and directions of the said court of the District Judge of _____ touching or concerning the estate and effects of the said minor and his property and touching and concerning all such money and estates as he the said Name of guardian _____ shall receive as such guardian as aforesaid and in all things conduct himself properly, then the above-written bond or obligation shall be void and of no effect otherwise the same shall remain in full force and virtue. Signed and sealed by the above-named. _____ seal _____ guardian and sureties. In the presence of _____ seal. _____ seal. _____

No. XXVI Form E Statement Relating to the Property of Minor of Annual Income and Expenditure Part-I - Statement Relating to Property {||-| Serial No. (with corresponding No. of Miscellaneous Register II)(a)| Name and description of minor(b)| Date of birth| Name and description of the guardian of person with date of appointment(b)| Name and description of the guardian of property with date of appointment| Date and amount of security bond (if any) taken from guardian| Date fixed for filing of accounts every year| BRIEF DESCRIPTION OF THE PROPERTY OF THE MINOR AND ITS ESTIMATED VALUE| Estimated income from various sources| Remarks|-| Immovable property| Movable property|-| ||||| (a) Land(b) House property(c) Securities, etc. etc. ||}(a) Corresponding number of the case in the Miscellaneous Register should be given in red ink.(b) Give father's name, caste and residence.

Part II – Statement of Accounts and Abstract of Important Orders {

| - | ACCOUNTS | ABSTRACT OF OTHER IMPORTANT ORDERS, e.g. UNDER SECTIONS 31,

32.

, 33, 34, 43 ETC. RELATING TO THE PERSON OR PROPERTY OF THE MINOR | - | Year | Date of filing accounts | Brief statement of income, expenditure and balance | Remarks of the Judge after examination of the accounts | Date of order | Abstract of order | - | | | | | } Form FA. - Form of Appointment Under Section 7 of Act No. VIII of 1980 (Guardians and Wards Act) Whereas this Court has, under the provisions of section 7 of Act No. VIII of 1890, been pleased to appoint you, _____ (or to declare you _____ to be) guardian of (the property or the person and property) of _____ during the period of his minority, to wit, till the day of the month of _____ 19 _____, subject to the provisions contained in the Act and the rules framed thereunder and particularly those provisions contained in sections 26, 27, 28, 29, 32, 33, 35, 36, 39, 44 and 45 of the Act aforesaid (which are printed on the back of this certificate) you are hereby authorised to take charge of the property of the minor in trust, to collect and pay all just debts, claims and liabilities due to or by the estate of the minor, to institute or defend suits connected with that estate and generally to do and perform all acts which may be necessary to the due discharge of the trust vested in you, provided always that you shall not mortgage, or charge or transfer by sale, gift, exchange or otherwise, any part of the immovable property of your ward, or lease any part of that property for a term exceeding five years, or for any term extending more than one year beyond the date on which your ward will cease to be a minor, without the express sanction of this Court previously obtained; and that you shall keep regular accounts of your receipts and disbursements, with all vouchers and other documents necessary to establish their correctness, and shall carry out all orders issued to you by this Court under the aforesaid Act. Given under my hand and the seal of the Court this _____ day of _____ 19 _____. Extracts From the Guardians and Wards Act

26. Removal of the ward from jurisdiction. - (1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by Will or other instrument, shall not without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

27. Duties of guardian of property. - A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this chapter,

he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

28. Powers of testamentary guardian. - Where a guardian has been appointed by Will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immovable property belonging to his ward, is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

29. Limitation of powers of guardian of property appointed or declared by the Court. - Where a person other than a Collector, or other than a guardian appointed by Will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court, -

(a) Mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of his ward. or -(b) lease any part of that property for a term exceeding five years or for any term exceeding more than one year beyond the date on which the ward will cease to be a minor.

32. Variation of power of guardian of property appointed or declared by the Court. - Where a guardian of the property of a ward has been appointed or declared by the Court, and such guardian is not the Collector, the Court may from time to time, by order define, restrict, or extend his powers with respect to the property of the ward, in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

33. Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward. - (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him, for its opinion, advice, or direction on any present question respecting the management or administration of the property of his ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by such of the persons interested in the application as the Court thinks fit. (3) The guardian stating in good faith the facts in the

petition, and acting upon the opinion, advice or direction given by the Court, shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

35. Suit against guardian where administration bond was taken. - Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition, and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of the Judge of the Court, and shall be entitled to recover thereon, as trustee for the ward, in respect of any breach thereof.

36. Suit against guardian where administration bond was not taken. - (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against the representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

(2)The provisions of sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of section 440 of the Code of Civil Procedure as amended by this Act.

39. Removal of guardian. - The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by Will or other instrument, for any of the following causes namely :-

(a)for abuse of his trust;(b)for continued failure to perform the duties of his trust;(c)for incapacity to perform the duties of his trust;(d)for ill-treatment, or neglect to take proper care of his ward;(e)for contumacious disregard of any provision of this Act or of any order of the Court;(f)for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward;(g)for having an interest adverse to the faithful performance of his

duties;(h)for ceasing to reside within the local limits of the jurisdiction of the Court;(i)in the case of a guardian of the property, for bankruptcy or insolvency;(j)by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:Provided that a guardian appointed by Will or other instrument, whether he has been declared under this Act or not, shall not be removed -(a)for the cause mentioned in (g), unless the adverse interest accrued after the death of the person who appointed him or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest; or(b)for the cause mentioned in clause (h), unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

44. Penalty for removal of ward from jurisdiction. - If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court, in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a term which may extend to six months.

45. Penalty for contumacy. - (1) In the following cases, namely, -

(a)if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor return to the custody of his guardian in obedience to an order under section 25, sub-section (1); or(b)if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34, a statement required under that clause, or to exhibit accounts in compliance with the requisition under clause (c) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section; or(c)if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3), the person, guardian or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees, for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement, or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.(2)If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and recommitted to the civil jail.B. - Certificate of

Administration Under Act VIII of 1890.I _____, Judge of the _____ District, do hereby make known that on the _____ day of _____ 19 _____, a certificate of administration of the property of _____ of (place) _____, a minor subject to the jurisdiction of this Court under Act VIII of 1890, was granted by me to _____ of (place) _____ he having

undertaken to administer the same on behalf of the above-named.

2. I do further make known that the said _____ has been appointed guardian, under Act VIII of 1890, of the person of the above-named minor.

Given under my hand and the seal of the Court, this day of 19_____. _____ Judge of the _____ District. Note - The holder of this certificate is empowered, under Act VIII of 1890, to exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a minor and may collect and pay all just claims, debts or liabilities due to or by the estates; but he has no power to sell or mortgage any immovable property, or to grant a lease thereof for any period exceeding five years without an order of the court previously obtained. Clause 2 of the certificate will be omitted unless the court sees fit to appoint some person to be administrator of estate and guardian of the minor.