

BILL

No. 61 of 1917.

An Act to provide for an Administrator of the Estates of Infants and an Official Guardian of said Estates.

(Assented to _____, 1917.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

SHORT TITLE.

1. This Act may be cited as "*The Official Guardian Act.*"

INTERPRETATION.

2. In this Act—

- (a) "Court" means and includes the Supreme Court of Alberta and the District Courts in Alberta;
- (b) "Judge" means and includes a judge of the Supreme Court of Alberta and of the District Courts in Alberta;
- (c) "Surrogate Court" means the District Court having jurisdiction to grant probate of wills or letters of administration.

ESTABLISHMENT OF OFFICIAL GUARDIAN.

3. There shall be established the office of official guardian and the Lieutenant Governor in Council shall appoint a barrister-at-law or solicitor of not less than five years' standing in the Kingdom of Great Britain and Ireland or in any province of Canada or in the North-West Territories, or for a portion of such period in one and for the remaining portion of such period in the other or others of such places, to be official guardian with such powers and duties as the Lieutenant Governor in Council may approve, or which may be given to or imposed upon him by this Act and such official guardian shall hold office during pleasure.

POWERS AND DUTIES OF OFFICIAL GUARDIAN.

4. The official guardian may—

- (a) Act as guardian *ad litem* of infants and lunatics;
- (b) Act in the administration of estates upon order of the court;
- (c) Act as custodian of property of missing persons, convicts or deceased persons;
- (d) Act as guardian of an insane person upon order of a judge of any court or by order of the Lieutenant Governor in Council or upon delegation of the Attorney General;
- (e) Act as judicial trustee of the estate of any deceased person upon order of the court;

- (f) Act as guardian of any infant made a ward of the court under *The Children's Protection Act*, being chapter 12 of the Statutes of 1909;
- (g) Act in such other capacity and do such other acts, matters and things as an official guardian is authorized or required to do by the Rules of Court or by order of a judge or by order of the Lieutenant Governor in Council or under this Act.

5. The official guardian may apply at the end of two years from the date upon which the letters probate or letters of administration were issued, or at any other time or times when he may deem it advisable to compel the administrator or executor to pass his accounts, and upon such application the judge may order that the executor or administrator do pass his accounts within the time to be fixed by the judge and such order may be enforced by attachment proceedings as if it were an order of the Supreme Court.

6. The official guardian may be served with notice of any application in respect of an infant or lunatic and such service may be made by delivering to the official guardian a copy of the petition or other process required to be delivered, and from the time of such service the said official guardian shall be guardian *ad litem* of the infant or lunatic unless and until the court or judge otherwise orders; and the said official guardian or any other guardian appointed by the court for the infant or lunatic shall take all such proceedings as he may deem necessary for the protection of the interests of the infant or lunatic and attend actively to the interests of such infant or lunatic and for that purpose communicate with all proper parties.

7. The official guardian shall be served with notice of every application to a surrogate court for probate of will or letters of administration where an infant or lunatic is interested in the estate of the deceased, and such notice shall contain full particulars of the estate and of the various beneficiaries and the names, addresses and ages of the infants or lunatics interested; and upon every application thereafter to the surrogate or any other court in any such estate or in any other manner affecting the infant or lunatic made at any time notice of such application shall be served upon the official guardian and such notice shall contain full particulars, showing the object of the application and the effect that it will have upon the estate of the infant or lunatic.

8. Any person may apply to the court for an order appointing the official guardian as judicial trustee under *The Trustee Ordinance*, and the court may by order appoint the official guardian a judicial trustee where in the opinion of the court or judge thereof it is expedient so to do.

9. The official guardian may upon the order of a judge or upon order of the Lieutenant Governor in Council investigate or audit the condition of accounts of any trust, and when making the investigation or audit he shall have a right of access for himself and for any other person

acting under his instructions to the books, accounts and vouchers of the trustees and to any securities and documents of title held by them on account of the trust and may require from them such information and explanation as may be necessary for the performance of his duties, and upon the completion of the investigation and audit shall make a report thereon to the court or to the Lieutenant Governor in Council as the case may be.

RULES AND REGULATIONS.

10. The Lieutenant Governor in Council may from time to time make rules governing the practice and procedure in the office of the official guardian and prescribe a tariff of costs, or may authorize the promulgation of Rules of Court governing such practice and procedure or the costs of proceedings and in every case such rules may be altered, annulled or varied from time to time as may be deemed advisable, and all Rules of Court which may be inconsistent with the provisions of this Act are hereby repealed in so far as they are inconsistent herewith.

COSTS.

11. The official guardian shall be entitled to the same costs as are payable to counsel and solicitors, and the same shall be liable to taxation and shall be in the discretion of the court; provided, however, that the court or judge may order that such costs be paid out of the estate and form a charge thereon, or such court or judge may order any other party to the proceeding or application or any other person not a party to pay the costs thereof either with or without an order, and thereupon the costs shall be payable in such manner as the court may order.

No. 61.

FIFTH SESSION
THIRD LEGISLATURE
7 GEORGE V
1917

BILL

An Act to provide for an Administrator of the Estates of Infants and an Official Guardian of said Estates.

Received and read the

First time

Second time

Third time

HON. C. W. CROSS. .

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A.D. 1917