



How to manage the finances of a mentally incapacitated person

There are two usual ways to deal with the financial matters of a mentally incapacitated person:-

- (i) *The financial power of a legal guardian* (by application to the Guardianship Board);
- (ii) *The appointment of a committee* (by application to the High Court).

However, the financial jurisdiction of the Guardianship Board is limited. It is mainly applicable to cases where the mentally incapacitated person has only savings at bank or cash. There are many situations that a Guardianship Order is not applicable, e.g. withdraw MPF; on behalf of the subject to deal with insurance policies e.g. continuing or terminating the policies (including retrieval of cash value etc); to rent out, sell, assign or manage property; buy or sell stocks, securities or investments, applying for grant of probate; seeking work injury or accident compensations; handling disputes on property or investment; recovering money misappropriated; handling problems on access and visit or making pension options of civil servants. Further, the maximum monthly sum that could be authorized by the Guardianship Board is limited to HK\$17,000 (as of the 4th quarter of 2018). Also, such money can only be spent for that person's maintenance.

In the circumstances, a relative of the mentally incapacitated person can apply or retain a lawyer to apply to the High Court for an order of appointment of a financial manager under Part II of the Mental Health Ordinance (commonly known as a Part II Order). Such a financial manager, known as a "Committee", will have much wider financial powers to make valid decisions for the mentally incapacitated person, e.g. selling of the subject's landed properties, stocks or investments or starting litigation. There is no express law imposing a maximum limit on monthly expenses for the maintenance of the mentally incapacitated person or his family members.

Regarding an application for a Part II (Committee) order, more information is available at the following websites: -

- (i) **Judiciary** - www.judiciary.hk:
 - (a) Guidance Note to Persons appointed as Committee of Estate of Mentally Incapacitated Person ("MIP");
 - (b) Practice Direction 30.1 (Applications under Part II of the Mental Health Ordinance (Cap. 136)).
- (ii) **Law Society of Hong Kong** - www.hklawsoc.org.hk: "Find Legal Services".
- (iii) **Official Solicitor's Office** - www.oso.gov.hk.

For more information, contact the Guardianship Board:

Address : Unit 807, 8/F, Hong Kong Pacific Centre, 28 Hankow Road,
Tsimshatsui Kowloon, Hong Kong

Tel : 2369 1999

Fax : 2739 7171

E mail : gbenquiry@adultguardianship.org.hk

Webstie : www.adultguardianship.org.hk

Important notes : The information in this leaflet is for general guidance only and does not purport to be legal advice given by the Guardianship Board.

Copyright notice of the Guardianship Board

© Copyright of the Hong Kong Guardianship Board 2011. Reproduction of any part is allowed only with written permission from the Guardianship Board.