



# 如何管理精神上 無行為能力人士的財務

有關管理精神上無行為能力人士的財務方法，大致可有以下兩種方法：

- (一) **監護人的財務權力** (向監護委員會作出申請)；
- (二) **產業受託監管人的委任** (向高等法院作出申請)。

監護委員會的財務管轄權是有限制的，主要只適用於精神上無行為能力人士的銀行存款或現金，監護令不適用的範圍甚多，例如處理物業、股票、證券、申領遺產承辦、投資項目、工傷或意外索償、物業或投資糾紛、追討金錢損失或其他的訴訟。況且，監護令的每月可用款額上限最高為目前 (二零一零年第三季) 港幣一萬一千元，與及只限用於當事人之供養上。

故此，精神上無行為能力人士之親屬，可親自或委託律師向高等法院依據《精神健康條例》第II部(香港法律第136章) 提出委任產業受託監管人 (簡單來說，即財務管理人) 的申請，以便妥善處理當事人的財產 (例如：物業之租售及股票或投資項目的買賣或提訟等)，一般而言，第II部份的命令是沒有成文法規定供養該人士本人或其家屬之每月最高可用的金額上限，但法庭當然有權在特別個案中及在有需要的情況下設定限額。

有關委任產業受託監管人的申請，可參考以下的資料：

- (一) **司法機構網頁** [www.judiciary.gov.hk](http://www.judiciary.gov.hk) **相關版面**：
  - (i) “被委任為精神上無行為能力的人的產業受託監管人須知”；
  - (ii) “實務指示30.1 (根據《精神健康條例》第136章第II部提出的申請)”。
- (二) **香港律師會網頁** [www.hklawsoc.org.hk](http://www.hklawsoc.org.hk) 的“找尋法律服務”。
- (三) **法定代表律師辦事處網頁** [www.oso.gov.hk](http://www.oso.gov.hk)。

**如欲索取有關申請監護令資料，請與監護委員會聯絡：**

地址：九龍尖沙咀漢口道28號亞太中心8樓807室  
電話：2369 1999  
傳真：2739 7171  
電郵：[gboffice@netvigator.com](mailto:gboffice@netvigator.com)  
網址：[www.adultguardianship.org.hk](http://www.adultguardianship.org.hk)

**注意：**本冊子的內容只提供一般資訊，不能視作為監護委員會的法律意見。

# How to manage the finances of a mentally incapacitated person

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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. managing landed properties, stocks, securities, investments, applying for grant of probate or letters of administration of an estate, claiming personal injuries damages or employee's compensations, handling litigations over property or investment disputes, monetary claims or other legal proceedings. Further, the maximum monthly sum that could be authorized by the Guardianship Board is limited to HK\$11,000 (as at the third quarter of 2010). 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.gov.hk](http://www.judiciary.gov.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](http://www.hklawsoc.org.hk) : "Find Legal Service".
- (iii) *Official Solicitor's Office* - [www.oso.gov.hk](http://www.oso.gov.hk)

## Regarding a guardianship application, you may like to contact the Secretariat of 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  
Email : [gboffice@netvigator.com](mailto:gboffice@netvigator.com)  
Website : [www.adultguardianship.org.hk](http://www.adultguardianship.org.hk)

**Important notes :** The contents of this leaflet is for general information only and shall not be taken as a legal opinion given by the Guardianship Board.

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