

• CURATORSHIPS IN JERSEY

Under the Mental Health (Jersey) Law 1969, the Royal Court will appoint a curator for a person (“the Interdict”) who is deemed incapable of managing and administering his or her own affairs by reason of a mental disorder or addiction. The term mental disorder covers a wide range of illnesses including dementia, schizophrenia and brain injury.

When a family is first told that their loved one requires a curator it can be a distressing and worrying time for them. At Collas Crill we administer a number of curatorships on behalf of clients and we are on hand to help with a problem or questions which you may have.

THE APPOINTMENT

When it is felt that a person has become incapable of managing their affairs, an assessment is carried out on the individual by either their own GP or another member of the medical profession. Once the assessment has been carried out, and it has been signed off by two medical practitioners, the medical professional will send all the necessary paperwork to the Solicitor General and the process for the appointment begins.

If the proposed curator is a family member or close friend, they must first attend at the Judicial Greffe to be interviewed by the officer responsible for curatorships to discuss the requirements of the law. On the basis of this meeting the court officer will assess the proposed curator’s suitability for the role and may, if necessary, send a report of the meeting to the Solicitor General. With all the information to hand the Solicitor General will then decide whether the proposed curator’s name should be presented to the court for consideration.

If the Solicitor General is satisfied with the information and also happy that the proposed curator is suitable for the role, a date will be set for the appointment. The proposed curator will be summonsed to attend court on a Friday morning and it is at his appointment that he or she will take the oath of curator. For this hearing, the court sits in private and evidence is put to the court as to the person who is to be subject to the curatorship. The evidence is usually provided by way of written submission, however in some cases it may be necessary for persons, whom the court deems appropriate, to appear before the court to provide their evidence orally, e.g. members of the medical profession.

Once the court is satisfied with the evidence to hand, the proposed curator is called upon to take the oath of curator in which they undertake to manage and administer the assets of the Interdict in accordance with the Mental Health (Jersey) Law 1969. An Act of Court which formally records this appointment is prepared and forwarded to the curator within a few days of the appointment.

WHAT HAPPENS NEXT?

Within 90 days of their appointment, the curator must submit to the Judicial Greffe an inventory of all the property, both movable and immovable, of the Interdict. This inventory must be verified by an affidavit sworn by the curator before a notary public, jurat, advocate or solicitor of the Royal Court. Upon the anniversary of the appointment, it is then the duty of the curator to deliver to the Judicial Greffe a copy of the accounts in relation to the management and administration of the Interdict’s affairs during that 12 month period. These accounts must be submitted within 30 days of the date of the anniversary and as with the inventory,

the accounts must be verified by an affidavit which must be sworn in accordance with the same rules.

THE POWERS OF A CURATOR

It must be remembered that a curator is answerable to the court in relation to their management and administration of the Interdict’s property and affairs and therefore they must apply to the court for consent before dealing with an Interdict’s assets in any way. This can include buying a property, creating an investment portfolio, or conducting legal proceedings in the name of the Interdict. Court consent is only required in cases where the curator wishes to spend more than £10,000 or 10% of the annual income of the Interdict, whichever is the lowest. A curator is only responsible for the management of the Interdict’s property and affairs and their authority as curator does not extend to the management and personal care of the Interdict as a person.

WHEN DOES A CURATORSHIP COME TO AN END?

There are four ways in which a curatorship can come to an end:-

1. The Interdict can apply to the court to bring the curatorship to an end when it has been subsequently deemed that the Interdict is capable of managing their own affairs. If this application is successful the curator will cease to hold office.
2. If the Interdict moves permanently from Jersey to a different jurisdiction and all of their assets have been transferred to the country where they have taken up residence, the curator can deliver his or her resignation to the Solicitor General and, provided that a new curator, or the equivalent, has been appointed in

the jurisdiction where the Interdict is now residing, the Solicitor General can authorise the resignation.

3. A curator can also resign in the circumstance where the Interdict is still resident in Jersey. This also must be presented to the Solicitor General and the court must seek to appoint another curator within Jersey for the Interdict.
4. A curator ceases to hold office on the death of the Interdict and the management and administration of the Interdict's property and affairs then devolves upon the legal representative of the Interdict, e.g. the executor or administrator of the estate.

In all four scenarios above, final curatorship accounts must be delivered to the Judicial Greffe within 30 days of the date upon which the curator ceased to hold office.

The above is a broad outline of curatorships in Jersey, for more information please contact a member of our Wills and Estates team.

**FOR MORE INFORMATION,
PLEASE CONTACT:**



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