

MENTAL DISABILITY

Under the Mental Health Act the Supreme Court or the Resident Magistrate's Court, dependent on the value of the property, could declare a person incapable of managing and administering his or her own property and affairs. (Section 29) The Court may appoint one or more persons listed at Section 3 of the Act as guardian for the estate of the individual.

Powers of a person appointed under order of the court

The powers of any person appointed as guardian by the Court may be open or limited to exercise all or any powers in relation to real property in the interest of and for the maintenance and benefit of the patient.

An attested copy of the Order of the Court may be submitted for registration on the Certificate of Title. Addresses and occupation for the trustee must be submitted along with an application to enter the order of the court.

An instrument lodged or registration must be prepared in the name of the mentally disabled person and executed by the guardian appointed in the order with the appropriate attestation clause. The powers set out in the Order of the Court must be strictly complied with.

Once the court has made an order and same is registered no further documents executed by the registered owner or power of attorney granted by the registered owner may be registered except a court order or an application for foreclosure or transfer under powers of sale contained in a mortgage.

Where a document is executed by the person appointed in the order the order should be examined to ensure compliance with the terms of the order.

Death of a person appointed under Order of the Court

Upon the death of a person appointed by the order of the court, a new guardian should be appointed.

Death of Mentally Disabled

Upon the death of the registered owner the order of the court is discharged. A transmission application by the personal representatives of the deceased registered owner should be submitted for registration.

Foreign Orders

If a mental health order is made in a foreign jurisdiction an application for appointment of a guardian in the local jurisdiction is to be made in the local courts.