

Protection of Personal and Property Rights Act 1988 (PPPR)

The purpose of the PPPR is to protect the personal and property rights of people who are not capable of managing their own affairs. This includes, but is not limited to, someone who is mentally ill, has an intellectual disability, or a brain injury that will affect their mental capacity.

There are numerous orders that can be granted under the PPPR, but the most common are an Order for Appointment of Welfare Guardian and an Order to Administer Property.

The Order for Appointment of Welfare Guardian relates to the welfare of an incapacitated person ("subject person"). A person will apply to the Family Court and if the application is successful is referred to as a welfare guardian. The welfare guardian will make decisions for the subject person in regards to their personal care; which includes medical care and dentistry.

The Order to Administer Property relates to the property of the subject person. A person will apply to the Family Court and if the application is successful is referred to as a property administrator. The property administrator will make decisions for the subject person in regards to property; examples of property are physical property and money. If any item of property is worth more than \$5,000.00 or the total income received annually is more than \$20,000.00 a specific order is required to be obtained for a person to be appointed to manage that specific property.

To start the application process, the following documents must be completed:

- application for appointment of property administrator and/or application for appointment of welfare guardian;
- affidavit in support of application;
- information sheet for the Family Court;
- a report from a medical practitioner; and
- written consent from family members.

The next step is to file the above documents in the nearest Court to where the subject person lives. The Court will arrange service of the documents on relevant parties. Once all parties are served, 21 days from the date of service, any relevant party can oppose the application by filing a Notice of Intention to Appear.

As soon as the Court receives the application, a lawyer for the subject person ("lawyer") is appointed and paid by the Court. This lawyer will contact the subject person and help them understand the application to the best of their ability. The lawyer will then write a report and make recommendations to the Court; some examples of recommendations are:

- if any further medical evidence is necessary;
- should the orders be granted;
- should other family members be consulted etc.

The lawyer usually has 28 days to complete the report and the person making the application will also receive a copy.

Once the report has been completed, the matter will be put on the "Registrar's List" to monitor progress. If the application is not opposed and the lawyer agrees that orders should be granted, the Registrar can recommend to a Judge that the matter be dealt with "on the papers". This means that a hearing is not required and the orders can be made immediately. The Judge will decide if an order should be made, or whether further information is required or a pre-hearing conference is necessary.

If the application is opposed, a pre-hearing conference before a Judge will be set down to identify the issues. At this point, it is recommended to seek legal advice from a family lawyer (if you have not done so already). These hearings are set down for 15 minutes. From there the Court may set down a mediation conference with a Judge to see if the issues can be resolved by further discussion, and an agreement achieved. Upon resolution of the issues and the Judge is satisfied the order(s) should be granted, an order can be made at the mediation conference.