

**Affidavit in support of application
for property order**
The Protection of Personal and Property Rights Act 1988

In the Family Court
at
[place]

FAM No:

.....
[full name]

.....
[address]

.....
[occupation]

Applicant

.....
[full name]

.....
[address]

.....
[occupation]

Person this application is about

[Set out full description of document (including whether it is made with or without notice), its date, and, in the case of an affidavit or affirmation, the name of the deponent and in whose support it is filed.]

This document is filed by

[name and address for service and, if filed by lawyers, the name and telephone number of the acting lawyer]

I,
[name]

of
[address]

.....
[occupation]

swear (or affirm)

1. I confirm my consent to act as manager of property or any specified part of that property of the person in respect of whom the application is made (“the person”), pursuant to an order to be made under the Protection of Personal and Property Rights Act 1988 (“the Act”).

2. My relationship with the person is as follows:

3. I am aged twenty years or over.

4. I confirm the contents of my application/co-application for:

[select the option that applies]

a property order.

a review of the property order dated

appointing as property manager(s).

5. I confirm I am familiar with the responsibilities and duties of a property manager pursuant to the Act.

6. I confirm that to the best of my knowledge the person

[select the option that applies]

is domiciled or is ordinarily resident in New Zealand;

the person owns property situated in New Zealand.

7. To the best of my belief I confirm that the person lacks wholly or partly the competence to manage his/her own affairs in relation to his/her property for the following reasons:

[set out factual basis including reference to any medical reports/evidence]

8. In the information sheet that accompanies this application, I have named the following people as people/organisations affected by this application. I have obtained consents from the following people/organisations:

[set out]

I consider service should be effected on the following (See Note 1):

[set out names/organisations]

To the best of my knowledge and belief there are no other persons/organisations including family and whanau members who should be served with the application.

9. *[select and complete if applies]*

I do not believe the person should be served with the application for the following reasons:

[set out reasons]

10. *[select and complete if applies]*

I do not believe the person should appear in Court in respect of the hearing of this application for the following reasons:

[set out reasons]

11. *[select and complete the option that applies]*

To the best of my belief the person is neither a patient nor proposed patient under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

To the best of my belief the person is a patient under a Compulsory Treatment Order made under the Mental Health (Compulsory Assessment and Treatment) Act 1992. An order was made for in-patient/community treatment by the

District Court at *[place]*

on *[date]* and that order still continues.

The person receives treatment from:

.....
[name of hospital or service provider]

To the best of my belief, the person is not subject to any such Order under the Mental Health (Compulsory Assessment and Treatment) Act 1992, but is currently receiving treatment/assessment from:

.....
[name of hospital or service provider]

12. I consider that I am is a suitable person to be appointed by the Court as a property manager for the following reasons:

[Set out your reasons. The Court needs to be satisfied that the applicant is a person who can be entrusted with the statutory obligations set out in s31) and that there are no factors – legal or otherwise- that would stand in the way of an appointment. Therefore you need to cover the following:

- *Are you or have you ever have been the subject of a bankruptcy order made under the Insolvency Act 1967? and/or;*
- *Are you presently subject to a compulsory treatment order made under the Mental Health (Compulsory Assessment and Treatment) Act 1992?*
- *Have you any previous criminal convictions? If so, please list.*
- *Are you subject to an order made under the Protection of Personal and Property Rights Act 1988?*

If one or more applies, applicant to set out reasons why he/she should be appointed]

13. I state as follows:

- That I am capable of carrying out the duties of a property manager for the person in a satisfactory manner, having regard both to the needs of the person and my relationship with the person;
- That I will always act in the best interests of the person;
- That I will seek to encourage the person to develop and exercise such competence as that person has, to manage his or her own affairs in relation to their property.

14. *[select and complete the option that applies]*

I confirm that there is no conflict or is unlikely to be any conflict between my interests and those of the person.

or

I confirm that there is a conflict or is likely to be a conflict between my interests and those of the person but that conflict is unlikely to impinge on my ability to carry out my duties as property manager for the following reasons:

[set out circumstances of conflict and reasons for being able to act]

--

15. I ask that the order cover

[select and complete the option that applies]

All the property of the person.

The following specified property of the person:

[list the property]

If I become aware of any further property of the person requiring management, I acknowledge the need to make a further application to vary the original order.

16. I am aware that I am not entitled to remuneration for my services unless directed by the Court at the time of making this order or any subsequent order.

17. *[select and complete the option that applies]*

I confirm that I do not seek remuneration for my services.

or

I seek remuneration for my services for the following reasons:

[set out reasons, and basis of remuneration for the Court to approve]

18. I confirm that all expenses properly incurred by me as manager can be charged against and payable out of the property of the person. I acknowledge that at all times when incurring any such expenses the needs of and the ability of the person's estate to pay for those expenses will be taken into account by me.

At this stage I envisage that the following expenses are likely to be incurred in managing the person's property:

[set out – if none, write none]

19. I acknowledge that during my appointment as far as it may be practicable I will consult with the person and such other persons or representatives from any non-profit group interested in the welfare of the person and are competent to advise in relation to management of the person's property. I acknowledge that there is power for me to apply to the Court for further directions where I have received advice which is in conflict with my duties as manager or is otherwise objectionable (s.43(3)). I also acknowledge that I will regularly consult with the person's duly approved welfare guardian (where appointed) if it is someone other than me (s.43(6)).

20. I confirm that I am aware of my responsibility to prepare and file in the Court statements containing prescribed particulars as referred to in s.45 in the Act as to the person's property as follows:

- within 3 months of the date of the order;
- within 30 days following the expiry of each year during which my managership continues;
- within 30 days as at the date of my ceasing to be manager.

21. I confirm that I am aware that failure to file the statements is an offence and I am liable on summary conviction to a fine not exceeding \$1,000. I further confirm that I am aware that if I file a statement which includes any particular that I know to be false, I commit an offence and am liable on conviction on indictment to imprisonment for a term not exceeding 3 years.

22. *[select and complete the option that applies]*

I seek an interim order because it is in the best interests of the person that an immediate order be made until the Court is able to make a final decision, for the following reasons:

[set out reasons]

Sworn (or Affirmed) at *[place]*

this day of 200

before me.

.....
Applicant

.....
Signature of person administering oath/affirmation who shall add his/her office

Note 1

As a minimum requirement service should be effected on the following persons:

- *Person in respect of whom the application is made (unless the person wholly lacks the capacity to understand the nature and purpose of the proceedings, or exceptional circumstances exist to justify dispensing with service);*
- *Each parent or guardian of that person;*
- *If the person is not living with either his or her parents or guardians, any person with whom the person is living;*
- *If a welfare guardian is acting for the person, that welfare guardian.*

(If applicant does not seek service, reasons to be given - e.g. family member whereabouts unknown)

Note 2

If more than one applicant each to file an affidavit