# FORM 217

Para 54

**ORIGINATING SUMMONS FOR MENTAL CAPACITY PROCEEDINGS**

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

OSM No. )

of 20 )

(Seal) )

In the Matter of Section [section no] of the Mental Capacity Act (Cap 177A)

And

In the Matter of [*name of person alleged to lack capacity*](ID No.: ), a person alleged to lack capacity (“P”)

Between

(Name and ID No.: ) … Plaintiff+

And

(Name and ID No.: ) ... Defendant*#*

To THE DEFENDANT(S) [name]

of [address]#

ORIGINATING SUMMONS

 The plaintiff/applicant\* prays for the following orders:-

 [*Please select the relevant prayer(s) or add prayers as required.*]

1. Permission

The plaintiff/applicant\*be permitted to make this application to the Court.

1. Dispensation

The Court dispenses with the following:

1. Notification of [*Name of P*] (“P”) of this application and of the date of the hearing for its final disposal.

[*Note: There is a general requirement to notify P. As such, if the applicant or plaintiff seeks dispensation of notification, an explanation as to why dispensation is sought has to be included in the supporting affidavit*.]

1. Attendance of the following persons at all hearings for this application:

 a. P;

 b. Dr [*state name of doctor*] (ID No. [*state number*]) of (*state address*).

1. Service of this application on [*state names and ID Numbers*].
2. That the Court be satisfied that:
3. [*Name of P*] (“P”) is unable to make various decisions for himself/herself\* in relation to a matter or matters concerning P’s personal welfare/property and affairs/personal welfare and property and affairs because of an impairment of, or a disturbance in the functioning of, P’s mind or brain;
4. The purpose for which the order is needed cannot be as effectively achieved in a way that is less restrictive of P’s rights and freedom of action.
5. That the Court orders as follows:-

 (1) **Appointment of Deputy/Deputies\***

1. [*State name*] (ID No. [*state number*]) of [*state address*] is/are\* appointed as deputy/deputies\* to make decisions on behalf of P that P is unable to make for himself/herself\* in relation to his/her\* personal welfare/property and affairs/personal welfare and property and affairs\* subject to any conditions or restrictions set out in this order.
2. The appointment will last until further order.
3. [The deputies shall act jointly/jointly and severally\* in all matters]\*

[*Note: To also include whether or not the deputies act jointly/jointly and severally at the appropriate paragraphs on the deputies’ authority and powers in this Originating Summons*.]

1. The deputy/deputies\* must apply the principles set out in section 3 of the Mental Capacity Act (Cap. 177A)(“MCA”) and have regard to the guidance in the Code of Practice to the MCA.
2. The deputy/deputies\* does/do\* not have authority to make a decision on behalf of P in relation to a matter if the deputy/deputies\* know(s) or has/have\* reasonable grounds for believing that P has capacity in relation to the matter.
3. In the event the deputy or any of the deputies (where two or more deputies are appointed) dies, becomes a bankrupt (for a property and affairs deputy) or lacks mental capacity to act as deputy, the following are appointed to succeed that deputy in the stated order:
4. [*State name*] (ID No. [*state number*]) of [*state address*].
5. [*State name*] (ID No. [*state number*]) of [*state address*] etc.
6. Upon the happening of such an event in paragraph (f), the surviving deputy or remaining deputy together with the successor deputy are to inform the Office of the Public Guardian and to apply to Court providing evidence of the event for the Court to confirm the appointment of the successor deputy.

[*Note: The prayer for successor deputy or deputies should only be included if there is a need for a successor deputy or deputies to be appointed, for example, if the proposed deputy is likely to predecease P*.]

 (2) **Authority of Deputy/Deputies\* in respect of P’s personal welfare:**

(a) The Court grants authority to the deputy/deputies\* to make the following decisions on behalf of P, that P is unable to make for himself/herself\* when the decision needs to be made:

1. where P should live;
2. with whom P should live;
3. consenting to medical or dental examination and treatment on P’s behalf;
4. making arrangements for the provision of care services; and
5. complaints about P’s care or treatment.
6. [*to state any other matters for which power is sought for deputy/deputies\* to make decision*]
7. For the purpose of giving effect to any decision, the deputy/deputies\* may execute or sign any necessary deeds or documents.
8. The deputy/deputies\* does/do\* not have the authority to make the following decisions or to do the following things in relation to P:
9. to prohibit any person from having contact with P;
10. to direct a person responsible for P’s health care to allow a different person to take over that responsibility;
11. to consent to specific treatment if P has made a valid and applicable advance decision to refuse that specific treatment; and
12. to do an act that is intended to restrain P otherwise than in accordance with the conditions specified in the MCA.

 (3) **Authority of Deputy/Deputies\* in respect of the property and affairs of P**

1. The deputy/deputies is/are authorised to do all such acts as may be necessary or expedient for giving effect to the decisions made in respect of P’s property and affairs pursuant to this Order of Court including, but not limited to the authority to:
2. execute and sign any necessary deeds or documents;
3. take control of the property and affairs of P; and
4. exercise the same powers of management as P has as beneficial owner.
5. The deputy/deputies\* is/are\* authorised to do the following:

 [*Note: To include here the relevant powers sought*]

(4) **Authority of Deputy/Deputies\* in respect of CPF monies and accounts of P** [where applicable]

[*Note: Please refer to the sample CPF orders on the website of the Family Justice Courts*]

 (5) **Costs and Expenses**

1. The deputy/deputies\* is/are\* authorised to make payment of reasonable legal costs and disbursements of and incidental to these proceedings from P’s estate.

(6) **Reports**

1. The deputy/deputies\* is/are\* (jointly) required to keep a record of any decisions made or acts done for the personal welfare of P pursuant to this order and the reasons for making or doing them.

[*For example, a decision that P will not undergo a medical procedure is to be recorded and the reason to be provided.*]

1. The deputy/deputies\* is/are\* (jointly) required to keep statements, vouchers, receipts and other financial records in the administration of P’s property and affairs. The deputy/deputies\* is/are\* also (jointly) required to keep a record of decisions made or acts done relating to P’s property and affairs.

[*For example, a decision not to expend monies for a medical procedure for P which is medically indicated is to be recorded and the reason to be provided.*]

1. The deputy/deputies\* must (jointly) complete and file an annual report relating to P’s personal welfare and property and affairs to the Public Guardian and further reports at any time as may be required by the Public Guardian.
2. Reports to the Public Guardian must contain such information and be in such form as may be required by the Public Guardian and must contain (but are not limited to) the following:

(i) a record of any decisions made or acts done for the personal welfare of P and the reasons for making or doing them;

(ii) a record of decisions made or acts done relating to P’s property and affairs;

(iii) an inventory of the assets belonging to P and the value and location of the assets; and

(iv) statements, vouchers, receipts and other financial records in the administration of P’s property and affairs.

 (7) There be liberty to apply.

*Memorandum to be subscribed on the summons#*

1. *If you intend to contest the application or any part of it, you are required to file an affidavit stating the grounds of your objection within 21 days of service after the date on which you were served with this summons.*
2. *If you do not attend personally or by your counsel or solicitor at the time and place stated in this summons, such order may be made as the Court may think just and expedient.*
3. *This summons is filed by [name of firm], the solicitor for the said plaintiff whose address is [address].*

*(or where the plaintiff sues in person)*

*This summons is filed by the said plaintiff who resides at [address] and is (state occupation) and (if the plaintiff does not reside within the jurisdiction) whose address for service is [address].*

1. *This summons may not be served more than 6 months after the above date unless renewed by order of the Court.*
2. *Unless otherwise provided in any written law, where the plaintiff intends to adduce evidence in support of an originating summons he must do so by affidavit, and must file the affidavit or affidavits and serve a copy thereof on every defendant not later than 7 days after the service of the originating summons.*

*+ To use “Applicant” if this is an ex parte application.*

*# To delete if this is an ex parte application.*

\**Delete where inapplicable.*