



VOISIN LAW

A financial guardian, a “Tuteur” (if a man) or “Tutrice” (if a woman) and hereinafter referred to as “Tuteur”, is required in circumstances where a child under the age of 18 years old (“Minor”) inherits immovable (real or freehold) property or a share in immovable property and/or movable (personal) assets over £25,000.

The law governing the appointment of Tuteurs and their powers and obligations is the Children’s Property and Tuteurs (Jersey) Law 2016 (the “Tuteur’s Law”).

How is a Tuteur appointed?

A Tuteur is appointed by the Royal Court further to an application being made by either a parent or relative of the Minor, a guardian of the Minor, a creditor of the Minor, the Attorney-General, or, with the leave of the Court, any other person. In practice, most applications are made by a parent for their own appointment as their child’s Tuteur. The application is heard on a Friday afternoon and if all is in order the Royal Court will administer the Oath of Office.

What does a Tuteur do and for how long does the role continue?

The Tuteur is responsible for the administration of the property in relation to which he or she is appointed, and for no other matter. The appointment ends on the Minor attaining the age of 18 years of age (the “cessation date”) at which point the Minor received their inheritance outright.

FREQUENTLY ASKED QUESTIONS (FAQ)

Q: I have been asked to act as Tuteur of my godchild, but I am worried about what my responsibilities may be.

A: Being appointed Tuteur is no insignificant matter. When swearing the Oath before the Royal Court a Tuteur agrees to administer the Minor’s property with “equal or even greater concern” than they would their own property.

The Minor’s property must be kept separate from the property of the Tuteur and the Tuteur must only use the Minor’s property for the benefit of the Minor. Acting in any other manner could constitute an offence or leave the Tuteur facing a possible claim from the Minor once they reach their majority.

A Tuteur must file an Inventory and annual accounts with the Judicial Greffe and failure to do could leave the Tuteur facing a fine, which is one of a number of offences set out in the “Tuteur’s Law.”

Q: Do I need to keep a record of the funds that I hold as Tuteur on behalf of my daughter?

A: A Tuteur is under a duty to provide an Inventory of the Minor’s property within 90 days of his or her appointment. The Inventory must be filed with the Judicial Greffier.



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In addition, the Tuteur must prepare annual accounts as at the date of appointment (“anniversary date”). These accounts must be filed with the Judicial Greffe within 30 days of the anniversary date.

A final set of accounts must also be prepared within 30 days of the cessation date. The final accounts must be accompanied by an affidavit sworn by the Tuteur attesting to their accuracy.

Q: I am the Tuteur of my son who has inherited a share in an immovable property. All the other beneficiaries want to sell the property. What do I do?

A: The transacting of immovable property held by a Tuteur on behalf of a Minor is governed by the Loi (1959) Touchant La Vente des Immeubles des Mineurs. This law provides that before a Minor’s immovable property can be sold an application must be brought before the Royal Court to appoint two Jurats to examine the proposed sale. If the Jurats consent to the sale, then one of the Jurats must be a party to the contract when it passes before the Royal Court.

Q: I have incurred estate agent’s fees to value the property. Can this be recovered?

A: The “Tuteur’s Law” provides that any expenses reasonably incurred by a Tuteur in discharge of his duties may be paid from the Minor’s property.

Q: I was appointed an electeur under the provisions of the old law. Does my role continue?

A: Before 2016 a Minor required a committee of people to manage their assets: a Tuteur or Tutrice and 7 ‘electeurs’ - committee members. When the “Tuteur’s Law” came into force in 2016 the role of those acting as Tuteur or Tutrice continued with the new “Tuteur’s Law” governing their continued appointment; however, the role of the electeur ended. The only obligation left for an electeur under the old regime is to approve any accounts prepared covering the period prior to 2016.

Voisin’s Will and Estates team provide expert guidance in all matters relating to wills and estate planning. If you would like to have an informal discussion about these matters, please contact Kylie Young, Eliana Lennon and Angela Roscouet at probate@voisinlaw.com.

This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.