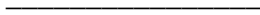




STATUTORY INSTRUMENTS.

S.I. No. 201 of 2023



CIRCUIT COURT RULES (ASSISTED DECISION-MAKING (CAPACITY)
ACT 2015) 2023

S.I. No. 201 of 2023

CIRCUIT COURT RULES (ASSISTED DECISION-MAKING (CAPACITY)
ACT 2015) 2023

We, the Circuit Court Rules Committee, constituted pursuant to the provisions of section 69 of the Courts of Justice Act 1936, by virtue of the powers conferred on us by section 66 of the Courts of Justice Act 1924; section 70 of the Courts of Justice Act 1936, (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961); section 27 of the Courts (Supplemental Provisions) Act 1961, sections 4(2), 36(7), 92(6) and 130 of the Assisted Decision-Making (Capacity) Act 2015 and of all other powers enabling us in this behalf, do hereby, with the concurrence of the Minister for Justice, make the following Rules of Court.

Dated this 26th day of April 2023

Patricia Ryan

Chairperson

John Aylmer

Tomás Keys

Tracy Ennis Faherty

Martin Lawlor

Siún Hurley

Sabina Purcell

Rita Considine

Brídín Concannon

James Finn

I concur in the making of the above Rules of Court.

Dated this 27th day of April 2023.

SIMON HARRIS

Minister for Justice

S.I. No. 201 of 2023

CIRCUIT COURT RULES (ASSISTED DECISION-MAKING (CAPACITY)
ACT 2015) 2023

1. (1) These Rules, which may be cited as the Circuit Court Rules (Assisted Decision-Making (Capacity) Act 2015) 2023, shall come into operation on the 27th day of April 2023.

(2) These Rules shall be construed together with the Circuit Court Rules 2001 to 2023.

(3) The Circuit Court Rules 2001 to 2022 as amended by these Rules may be cited as the Circuit Court Rules 2001 to 2023.

2. On the date which is three years from the date on which Part 6 of the Assisted Decision-Making (Capacity) Act 2015 enters into force, Order 47 shall be deleted from the Circuit Court Rules.

3. The Circuit Court Rules are amended:

(i) by the substitution of paragraph (d) of Order 2 for the following paragraph:

“(d) under the Assisted Decision-Making (Capacity) Act 2015 as amended, in a county in which the relevant person or person who is the subject of an application under the Act:

(i) is residing or carrying on business at the time the application is made,

(ii) has resided at any time within the period of three years immediately prior to the making of the application.”;

(ii) by the substitution therein for rule 8 of Order 6 of the following rule:

“8. (1) In this rule, the “2015 Act” means the Assisted Decision-Making (Capacity) Act 2015, and expressions used have the meanings assigned to them by the 2015 Act.

(2) Where there is in force in respect of a relevant person a decision-making representation order which authorises a decision-making representative appointed in respect of the person to institute, prosecute or defend such proceedings, the relevant person shall sue or defend by his or her decision-making representative, and service on the decision-making representative shall be good and sufficient service.

- (3) Where there is in force in respect of a relevant person as the donor a registered enduring power of attorney in respect of which a notification of lack of capacity has been accepted, which includes authority to act on the donor's behalf in relation to the institution, prosecution or defence of proceedings, the relevant person shall sue or defend by his or her attorney, and service on the attorney shall be good and sufficient service.
 - (4) Where there is in force in respect of a relevant person as the donor a registered enduring power under the Act of 1996, which includes authority to act on the donor's behalf in relation to the institution, prosecution or defence of proceedings, the relevant person shall sue or defend by his or her attorney under the Act of 1996, and service on the attorney under the Act of 1996 shall be good and sufficient service.
 - (5) Where there is in force in respect of an intending party or party to proceedings as the appointer a registered co-decision-making agreement which provides for the making jointly by the appointer and a co-decision-maker of decisions concerning proceedings, the originating document or defence, and each subsequent document delivered in the proceedings shall be signed by, or shall include a certificate that the decision to issue and deliver same was made jointly by, the appointer and co-decision-maker.
 - (6) Where any issue arises as to, or arising from, the capacity of any adult party to proceedings, the Court may, of its own motion having heard the parties, or on the application by motion on notice of any party, or person sufficiently interested, make such orders or give such directions concerning the further conduct of the proceedings as are necessary in the interests of justice."
 - (7) A ward of court may sue or defend by his or her committee.
- (iii) by the substitution therein for rule 15 of Order 11 of the following rule:
- "15. Service on a relevant person (within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015) who is a defendant to an action, shall be in accordance with Order 6, rule 8.";
- (iv) by the substitution therein for paragraph (j) of rule 1 of Order 13 of the following paragraph:

- “(j) the proceeding relates to a child or to a relevant person referred to in section 2 of the Assisted Decision-Making (Capacity) Act 2015 (whether or not an order under that Act has been made in respect of the relevant person concerned) who is habitually resident in, or a citizen of, Ireland; or”;
- (v) by the substitution therein for rule 3 of Order 15 of the following rule:
 - “3. (1) Where no appearance has been entered, within the time allowed, to a Civil Bill, for a defendant who is a child, the plaintiff shall, before further proceeding with the action against the said defendant, apply in the Office in the manner prescribed in Order 19 for an order that some proper person be assigned guardian ad litem of such defendant by whom he or she may appear and defend.
 - (2) Where no appearance has been entered, within the time allowed, to a Civil Bill or other originating document, for a defendant who is a person whose capacity to conduct proceedings is in question or may shortly be in question, but in respect of whom no decision-making representation order has been made under section 38(2)(b) of the Assisted Decision-Making (Capacity) Act 2015 which is in force, the plaintiff shall, before further proceeding with the action against the said defendant, apply to the Court under Order 6, rule 8. ”;
- (vi) by the substitution therein for paragraph (i) of rule 1 of Order 19 of the following paragraph:
 - “(i) for the appointment of a guardian ad litem of a child;”, and
- (vii) by the insertion immediately following Order 47A of the Order set out in Schedule 1.

4. The Forms 55A to 55J inclusive set out in Schedule 2 shall be added to the Schedule of Forms annexed to the Circuit Court Rules in the appropriate sequence.

Schedule 1

“Order 47B

Applications under the Assisted Decision-Making (Capacity) Act 2015

I. Preliminary

Interpretation

1. (1) In this Order:-

the “Act” means the Assisted Decision-Making (Capacity) Act 2015;

“Capacity Application” means an originating application to the Court for a declaration under section 37 of the Act in respect of a relevant person commenced in accordance with rule 4;

“Discharge Application” means an originating application to the Court for a declaration under section 55 of the Act in respect of a ward commenced in accordance with rule 8;

“Director” means the Director of the Decision Support Service appointed under section 94 of the Act;

“enduring power of attorney” shall be construed in accordance with section 59(2) of the Act;

“enduring power under the Act of 1996” shall be construed in accordance with section 2(1) of the Act;

“healthcare professional” means a person in a class for the time being prescribed in regulations made in accordance with section 31 or section 79 of the Act;

“maker” means:

- (a) the decision-making assistant appointer in relation to a decision-making assistance agreement;
- (b) the co-decision-maker appointer in relation to a co-decision-making agreement;
- (c) the donor in relation to an enduring power of attorney or an enduring power under the Act of 1996, or
- (d) the directive-maker in relation to an advance healthcare directive,

where any application to the Court under the Act concerns such agreement, power or directive or anything done or not done or purportedly done pursuant to such agreement, power or directive;

“proper officer” means the combined court office manager for the relevant court office;

“relevant court office” means the office specified in rule 2;

“Review Motion” means a notice of motion issued in accordance with rule 12, under section 49(1) of the Act, to enable a review under section 49 of the Act of a declaration;

“Statement of Particulars” means a Statement of Particulars in the Form 55B in the Schedule of Forms, filed or intended to be filed in support of an application under Part 5 or Part 6 of the Act;

unless the context otherwise requires, each of the expressions defined in sections 2(1), 9, 16, 53, 58, 82, 104 and 109 of the Act has the same meaning when used in this Order as in the section concerned.

(2) In the event that any conflict shall arise between the provision of any rule of this Order and any other provision of these Rules, the provision of the rule of this Order shall prevail in respect of any proceedings under the Act.

Jurisdiction and offices

2. (1) Every originating document in proceedings under the Act shall state the basis on which the Court for the Circuit concerned has jurisdiction in accordance with section 4(1) of the Act and such statement shall be verified in an affidavit grounding the application.

(2) The originating document in proceedings under the Act shall be issued out of the Office for a county in which the relevant person the subject of an application under the Act:

- (a) is residing or carrying on business at the time the application is made, or, as the case may be,
- (b) has resided at any time within the period of three years immediately prior to the making of the application.

II. Capacity Applications under Part 5 of the Act

Application for consent to make Part 5 application

3. (1) An application under section 36(3) of the Act for the consent of the Court to the making of an application under Part 5 of the Act shall be made by motion *ex parte* in the Form 55G in the Schedule of Forms, grounded on an affidavit of the applicant. The grounding affidavit shall:

- (a) include the statements required by section 36(5) of the Act and any information required by section 36(6) of the Act;
- (b) provide any information within the deponent’s knowledge as to why the application under Part 5 of the Act concerning the relevant person has not been made, or cannot be made, by a person mentioned in section 36(4) of the Act;
- (c) in the case of an intended Capacity Application, exhibit the Originating Notice of Motion in the Form 55A in the Schedule of Forms intended to be issued if consent is given;
- (d) in the case of an intended Capacity Application, exhibit and verify the Statement of Particulars intended to be filed in support of the intended application under Part 5 of the Act.

(2) The Court may adjourn any such application and may direct that it be made on notice to a person mentioned in section 36(4) of the Act identified in the Court’s direction.

(3) A copy of any order made under section 36(3) of the Act giving consent shall be served by the applicant on the relevant person and on any other person on whom the Court directs service.

Application for declaration under section 37

4. (1) Every originating application to the Court for a declaration under section 37 of the Act in respect of a relevant person shall be commenced by Originating Notice of Motion in the Form 55A in the Schedule of Forms, which shall be known (and is hereinafter referred to in this Order) as a “**Capacity Application**”.

(2) The Capacity Application shall specify each relief sought under Part 5 of the Act and shall include the title and record number of any previous proceedings in the Court under the Act concerning the relevant person who is the subject of the Capacity Application.

(3) The Capacity Application shall be signed by the applicant or by the applicant’s solicitor (if any) and prior to the issue of the Capacity Application there shall be filed a completed Statement of Particulars, verified by an affidavit, in the Form 55I in the Schedule of Forms, sworn by the applicant.

(4) A Capacity Application shall be supported by a report of a registered medical practitioner or healthcare professional, which shall:

- (a) include details of the extent to which the person making the report has treated the relevant person and include details of any examination or assessment undertaken for the purposes of making the report, and
- (b) report on matters within the person’s expertise which relate to the relevant person’s capacity, considered in accordance with section 3 of the Act, to the extent relevant to the relief sought in the Capacity Application, including the likelihood of recovery of the relevant person’s capacity.

(5) The affidavit referred to in sub-rule (3) shall:

- (a) exhibit every document referred to or relied upon in the Statement of Particulars;
- (b) exhibit copies of any relevant order under the Act previously made in respect of the relevant person;
- (c) exhibit copies or set out particulars of any relevant assisted decision-making agreement, co-decision-making agreement, advance healthcare directive, enduring power of attorney or enduring power of attorney under the 1996 Act (including any variation of same) made by the relevant person concerned,
- (d) exhibit the original of each report referred to in sub-rule (4), and
- (e) exhibit copies of all other relevant correspondence and documents so far as affects the relevant person concerned, relevant to the matter or matters in respect of which relief is sought. Such copies shall be incorporated in a single exhibit, indexed and numbered sequentially in chronological order.

(6) Unless stated in the Statement of Particulars, the grounding affidavit shall confirm whether, to the deponent's knowledge, there is in being in respect of the relevant person (and if so, exhibit a true copy of) any advance healthcare directive or any enduring power of attorney or enduring power under the Act of 1996.

(7) Unless stated in the Statement of Particulars, where the relief proposed in the Capacity Application includes a declaration under section 37(1)(a) of the Act that the relevant person lacks capacity unless the assistance of a suitable person as a co-decision-maker is made available to him or her to make one or more decision, the grounding affidavit shall additionally confirm whether a suitable person has been identified, and is willing, to act as a co-decision maker with the relevant person concerned.

(8) Unless stated in the Statement of Particulars, where the relief proposed in the Capacity Application includes a declaration under section 37(1)(b) of the Act that the relevant person lacks capacity even if the assistance of a suitable person as a co-decision-maker were made available to him or her, the grounding affidavit shall additionally:

- (a) identify any person proposed by the applicant to act as decision-making representative and provide particulars of the suitability of that person to act as such;
- (b) identify the decisions in respect of which it is proposed that the decision-making representative should act;
- (c) exhibit a letter from the person proposed to act as decision-making representative:
 - (i) confirming his or her agreement to act as decision-making representative;
 - (ii) confirming that he or she understands and undertakes (if appointed) to act in accordance with the requirements identified at section 38(11)(a) and 38(11)(b) of the Act;
 - (iii) confirming that he or she is not ineligible to act as decision-making representative for any reason set out in section 39 of the Act;
- (d) set out how the appointment of the person proposed is likely to affect the preservation of existing relationships within the family of the relevant person;
- (e) where no person is proposed to act as decision-making representative, set out the efforts made (which shall not require consultation with, or application to, the Director) to obtain a suitable person to act as decision-making representative and why it has not been possible to propose a person as such.

(9) Every Capacity Application issued under this rule shall be assigned a record number and a return date for a sitting before a Judge of the Court.

(10) The Court may, where it considers it necessary in the interests of justice, authorise the commencement of an originating application to the Court

for a declaration under section 37(3) of the Act by way of originating notice of motion.

Service of Capacity Application and responses

5. (1) Unless such person is himself or herself the applicant, the applicant shall, not later than 21 days before the return date, cause the Capacity Application to be served:

- (a) on the relevant person, and
- (b) on each other person required by section 36(2) of the Act to be served

by-

- (i) serving a copy of the Capacity Application, Statement of Particulars, grounding affidavit and any other affidavit relied on (and any exhibits thereto), together with a form for reply to the application in the Form 55C in the Schedule of Forms, on the relevant person in accordance with sub-rule (2), and
- (ii) serving copies of those documents, in the manner permitted by law for service of a Civil Bill, on every other person on whom service is required.

(2) Service of a Capacity Application on a relevant person as required by sub-rule (1) shall be effected by personal service by delivering to and leaving with the relevant person true copies of the Capacity Application, Statement of Particulars, grounding affidavit and any other affidavit relied on (and any exhibits thereto), and form for reply. The person effecting service shall, at the same time, insofar as is practicable having regard to the relevant person's communication skills, abilities and needs:

- (a) explain the nature and implications of the application, and
- (b) explain that the relevant person is permitted and encouraged to participate, and will be facilitated, in participating in the hearing of the Capacity Application, and
- (c) record any response by the relevant person.

(3) The applicant shall notify the relevant court office of any special arrangements that may be required to facilitate the relevant person's participation in the the hearing of the Capacity Application.

(4) Save as otherwise provided in this Order, or as otherwise directed or permitted by the Court, service on a ward or on a relevant person of any other application or document in proceedings under the Act shall be effected in accordance with sub-rule (2).

(5) The provisions of these Rules as to substituted service shall not apply in the case of a relevant person, unless the Court otherwise directs.

(6) Without prejudice to the right of the relevant person to deliver a replying affidavit, the relevant person may reply to the Capacity Application by completing the reply specified in paragraph (i) of sub-rule (1), which shall be sent to the applicant and to the proper officer not later than seven days prior to

the return date. Where the relevant person in his or her reply does not consent to the application, the applicant shall serve a copy of that reply on each person on whom service is required by this rule in the manner permitted by law for service of a Civil Bill.

(7) Any person served with a Capacity Application shall be at liberty (but is not required) to file and serve an affidavit replying to the Capacity Application. Where all or any part of the Capacity Application is opposed, the replying affidavit shall specify the part or parts of the Capacity Application which are not opposed and those which are opposed and shall set out concisely the grounds of any opposition to the Capacity Application and verify any facts, and exhibit any documents, relied on in opposing the Capacity Application. A copy of such affidavit (and any exhibits thereto) shall, subject to sub-rule (10), be served on the applicant and on every other person whom service of the Capacity Application is required by this rule not later than seven days before the return date.

(8) The applicant shall file in the relevant court office not later than four days before the return date of the Capacity Application:

- (a) an affidavit, which shall be in the Form 55D in the Schedule of Forms, verifying service of the Capacity Application on the relevant person, stating the time, place, and mode of service; including averments in respect of the efforts made by the deponent to explain the nature and implications of the documents served on the relevant person, and setting out any response of the relevant person;
- (b) an affidavit verifying service of the Capacity Application on every person (other than the relevant person) required to be served in accordance with section 36(2) of the Act, and exhibiting any written response, from any such person served.

(9) The applicant shall file in the relevant court office not later than four days before the return date of the Capacity Application an indexed booklet which shall contain copies of:

- (a) the Capacity Application;
- (b) the completed Statement of Particulars, verifying affidavit and any exhibits;
- (c) every medical or other report prepared for the purpose of the application or intended to be relied on in the application;
- (d) any other affidavit relied on by the applicant;
- (e) any affidavit or other response delivered by or on behalf of any person served with the application,
- (f) every affidavit of service,

and may also include:

- (g) any other document intended to be relied on at the hearing of the application.

(10) Notwithstanding sub-rules (6) and (7), every written response of the relevant person to the Capacity Application, in whatever form, shall be placed before the Court on the return date.

Application for interim order under section 48

6. (1) An application for the making of an interim order in accordance with section 48 of the Act may be made by motion *ex parte* or by notice of motion grounded upon the affidavit or affidavits sworn in support of the Capacity Application and such other affidavits as the Court may permit.

(2) Where an interim order is made *ex parte*, any person entitled by virtue of section 36 of the Act to make such application may apply by notice of motion returnable to the date fixed for the hearing of the Capacity Application or to such other date as may be assigned to vary or revoke the interim order.

III. Hearing of Capacity Applications under Part 5 of the Act

Powers available on hearing of Capacity Application

7. (1) On the return date of a Capacity Application or on any adjournment from such date, the Court may proceed to hear and determine the Capacity Application. Where it considers it necessary to do so, the Court may give such further directions and make such orders for the further conduct of the Capacity Application as appear convenient for the determination of the matter in a manner which has regard to the guiding principles set out in section 8 of the Act and which is otherwise just, expeditious and likely to minimise the costs of the proceedings.

(2) Where a Capacity Application includes an application or request for the appointment of a decision-making representative, but does not identify or disclose a suitable person willing to act as such, and the Court is considering making a declaration under section 37(1)(b) of the Act, the Court may at any time direct the registrar of the Court to make a request for nomination (or, where necessary, further nomination) of panel members in accordance with section 38(7) of the Act to the Director, and make such further directions as are necessary to give effect to that request, including the information to be provided to the Director and the date by which such nominations (or further nominations) should be submitted.

(3) Every statement signed in accordance with section 38(11) of the Act shall be in the Form 55J in the Schedule of Forms and shall be filed in the relevant court office.

(4) Where the Court has made a declaration under section 37(1)(a) of the Act in relation to a relevant person, it may, without limitation of the Court's power of adjournment, adjourn the proceedings and direct the filing prior to the adjourned date of an affidavit:

- (a) exhibiting a signed copy of the co-decision-making agreement made by the relevant person;
- (b) verifying registration of the co-decision-making agreement or, as the case may be, confirming that the signed co-decision-making agreement complies with the requirements set out in Part 4 of the Act for the purposes of registration;

- (c) where it has not been possible to have a co-decision-making agreement signed and/or registered, setting out the efforts made to identify a suitable co-decision maker and explaining why it was not possible to obtain a suitable person to act in that capacity;
- (d) setting out any material change in circumstances which has arisen since the matter was most recently before the Court, or confirming that there has been no such change.

(5) Where the Court makes a decision-making representation order in circumstances where section 38(1)(a) of the Act applies, it may direct the giving of notice to the registrar of the Court of the registration of a co-decision-making agreement in relation to the relevant person.

(6) The requirement in section 51 of the Act for furnishing a copy of a declaration, order or direction made under Part 5 of the Act to the Director shall be satisfied by the transmission by the registrar of the Court to the Director, by registered post or by such other means including electronic means as are agreed by the registrar with the Director, of a copy of the Court's order including any declaration or determination.

IV. Discharge Applications under Part 6 of the Act

Discharge Application

8. (1) Every originating application under section 54(1) of the Act to the Court for a declaration under section 55 of the Act in respect of a ward shall be commenced by Originating Notice of Motion in the Form 55A in the Schedule of Forms, with the necessary modifications, which shall be known as a “**Discharge Application**”.

(2) The Discharge Application shall include the record number of the wardship proceedings and, where a declaration is sought under section 55(1)(b)(ii) of the Act, shall specify each relief sought in the proceedings under Part 5 of the Act contingently upon such declaration being made.

(3) A Discharge Application initiated by a person to whom section 54(1)(c) of the Act applies shall additionally include as a relief the consent of the Court to the making of the Discharge Application by that person.

(4) The Discharge Application shall be signed by the applicant or by his or her solicitor (if any) and prior to the issue of the Discharge Application there shall be filed a completed Statement of Particulars in the Form 55B in the Schedule of Forms and an affidavit in the Form 55I in the Schedule of Forms.

(5) A Discharge Application shall be supported by a report of a registered medical practitioner or healthcare professional, which shall:

- (a) include details of the extent to which the person making the report has assessed or treated the ward and include details of any examination or assessment undertaken for the purposes of making the report, and
- (b) report on matters within the person's expertise which relate to the ward's capacity, considered in accordance with section 3 of the Act, to the extent relevant to the relief sought in the

Discharge Application, including the likelihood of recovery of the ward's capacity.

(6) The affidavit referred to in sub-rule (4) shall:

- (a) exhibit every document referred to or relied upon in the Statement of Particulars;
- (b) exhibit copies of any relevant order previously made in respect of the ward;
- (c) exhibit copies of any relevant assisted decision-making agreement, co-decision-making agreement, advance healthcare directive, enduring power of attorney or enduring power of attorney under the 1996 Act (including any variation of same) made by the ward concerned,
- (d) exhibit the original of each report referred to in sub-rule (4) and
- (e) exhibit copies of all other relevant correspondence and documents so far as affects the ward concerned, relevant to the matter or matters in respect of which relief is sought. Such copies shall be incorporated in a single exhibit, indexed and numbered sequentially in chronological order.

(7) In every Discharge Application, any guardian of the person and/or the property of the ward shall file and deliver to the applicant (unless the guardian is himself or herself the applicant):

- (a) a report or reports on the directions proposed as to the discharge of the ward, including in relation to the ward's property;
- (b) a report or reports on the will and preferences, beliefs and values of the ward and on any other relevant factors for the purposes of section 8(7)(b) and (c) of the Act, and
- (c) a report or reports on the views of any other person mentioned in section 8(8) of the Act,
- (d) any report of any medical visitor concerning the ward.

(8) The applicant shall liaise with any guardian of the person and/or the property of the ward to ensure the timely preparation and production of the reports required by sub-rule (7) in advance of the hearing of any Application under section 54(1) of the Act.

(9) Where the relief proposed in the Discharge Application includes a declaration under section 55(1)(b)(ii) of the Act that the ward lacks capacity even if the assistance of a suitable person as a co-decision-maker were made available to him or her, the guardian of the person and/or the property of the ward estate shall additionally file and deliver to the applicant (unless the guardian is himself or herself the applicant) a report or reports:

- (a) on the scope of the decisions in respect of which the applicant proposes that the decision-making representative should act;
- (b) where it is proposed that the decision-making representative should make decisions on the ward's property and affairs, on the matters set out in section 38(6)(a), (b), (c) and (d) of the Act;

- (c) on the known will and preferences of the ward for the purposes of section 38(5)(a) of the Act and on information available to the guardian concerning the matters identified at section 38(5)(c) to (f) of the Act, and
- (d) confirming the guardian's knowledge of any advanced healthcare directive or any enduring power of attorney or enduring power under the Act of 1996 in being in respect of the ward.

(10) Every Discharge Application issued under sub-rule (1) shall be assigned a return date for a sitting before a Judge of the Court.

Service of Discharge Application and responses

9. (1) The applicant shall, not later than 21 days before the return date, cause the Discharge Application and the reports mentioned in rules 8(4) and 8(6) to be served:

- (a) on the ward concerned,
- (b) on each other person who would be required by section 36(2) of the Act to be served with an application under Part 5 of the Act

by-

- (i) serving a copy of the Discharge Application, Statement of Particulars, grounding affidavit and any other affidavit relied on (and any exhibits thereto), together with a form for reply to the application in the Form 55C in the Schedule of Forms, on the ward in accordance with rule 5(2), and
- (ii) serving a copy of those documents, in the manner permitted by law for service of a Civil Bill, on any other person on whom service is required by this rule.

(2) Without prejudice to the right of the ward to deliver a replying affidavit, the ward may reply to the Discharge Application by completing the reply specified in paragraph (i) of sub-rule (1), which shall be sent to the applicant and the proper officer not later than seven days prior to the return date. Where the ward in his or her reply does not consent to the application, the applicant shall serve a copy of that reply on each person on whom service is required by this rule in the manner permitted by law for service of a Civil Bill.

(3) Any person served with a Discharge Application shall be at liberty (but is not obliged) to file and serve a replying affidavit. Where all or any part of the Discharge Application is opposed, the replying affidavit shall specify the part or parts of the Discharge Application which are not opposed and those which are opposed and shall set out concisely the grounds of any opposition and verify any facts relied on in opposing the Discharge Application. A copy of such affidavit (and any exhibits thereto) shall, subject to sub-rule (6), be served on the applicant and on every other person required by this rule to be

served with the Discharge Application not later than seven days before the return date.

(4) The applicant shall file in the relevant court office not later than four days before the return date of the Discharge Application:

- (a) an affidavit, which shall be in the Form 55D in the Schedule of Forms, verifying service of the Discharge Application on the ward, stating the time, place, and mode of service; including an averment in respect of the efforts made by the deponent to explain the nature and implications of the papers served on the ward, and setting out any response of the ward;
- (b) an affidavit verifying service of the Discharge Application on every person (other than the ward) required to be served, and exhibiting any written response, from any such person served.

(5) The applicant shall file in the relevant court office not later than four days before the return date of the Discharge Application an indexed booklet which shall contain copies of:

- (a) the Discharge Application;
- (b) the completed Statement of Particulars, verifying affidavit and any exhibits;
- (c) every medical or other report prepared for the purpose of the application or intended to be relied on in the application;
- (d) any other affidavit relied on by the applicant;
- (e) any affidavit or other response delivered by or on behalf of any person served with the application,
- (f) every affidavit of service,

and may also include:

- (g) any other document intended to be relied on at the hearing of the application.

(6) Notwithstanding sub-rules (2) and (3), every written response of the ward to the Discharge Application, in whatever form, shall be placed before the Court on the return date.

Review under sections 54 and 55 where no application is made

10. (1) The Court shall cause every wardship matter in the Court to which section 54(2) of the Act applies (other than a wardship matter in which an application has been initiated under section 54(1) of the Act), to be listed before the Court not later than six months before the expiry of the period of three years mentioned in section 54(2) of the Act, on notice to such persons as the Court directs.

(2) The Court shall cause every wardship matter in the Court to which section 54(3) of the Act applies, to be listed before the Court not later than the date on which the ward attains 18 years of age, on notice to such persons as the Court directs.

(3) The Court may at any time give such directions as the Court considers necessary to enable it to make a decision under section 55 of the Act.

(4) In each case mentioned in sub-rule (1) or sub-rule (2), the matter of the ward concerned and section 55 of the Act shall be assigned a record number and a return date for a sitting before a Judge of the Court, on notice to such persons as the Court directs, with or without requiring the issue of a Discharge Application. On and from the return date, the matter shall proceed as a Discharge Application.

V. Hearing of Discharge Applications under Part 6 of the Act

Powers available on hearing of Capacity Application

11. (1) On the return date of a Discharge Application or on any adjournment from such date, the Court may proceed to hear and determine the application. Where the application is not determined on such date, and where it considers it necessary to do so, the Court may give such further directions and make such orders for the further conduct of the application as appear convenient for the determination of the matter in a manner which has regard to the guiding principles set out in section 8 of the Act and which is otherwise just, expeditious and likely to minimise the costs of the proceedings.

(2) Where the Court is considering making a declaration under section 55(1)(b)(ii) of the Act in relation to a ward, but there does not appear to be a suitable person willing to act as decision-making representative, the Court may at any time direct the registrar of the Court to make a request for nomination (or, where necessary, further nomination) of panel members in accordance with section 38(7) of the Act to the Director, and make such further directions as are necessary to give effect to that request, including the information to be provided to the Director and the date by which such nominations (or further nominations) should be submitted.

(3) Where the Court has made a declaration under section 55(1)(b)(i) of the Act in relation to a ward, it may, without limitation of the Court's power of adjournment, adjourn the proceedings and direct the filing prior to the adjourned date of an affidavit:

- (a) exhibiting a signed copy of the co-decision-making agreement made by the ward;
- (b) verifying registration of the co-decision-making agreement or, as the case may be, confirming that the signed co-decision-making agreement complies with the requirements set out in Part 4 of the Act for the purposes of registration;
- (c) where it has not been possible to have a co-decision-making agreement signed and/or registered, setting out the efforts made to identify a suitable co-decision maker and explaining why it was not possible to obtain a suitable person to act in that capacity;
- (d) setting out any material change in circumstances which has arisen since the matter was most recently before the Court, or confirming that there has been no such change.

(4) Where the Court makes a decision-making representation order in circumstances where section 55(4) of the Act applies, it may direct the giving of notice to the registrar of the Court of the registration of a co-decision-making agreement in relation to the relevant person.

VI. Review of declarations made under Part 5 or Part 6 of the Act

Review of declarations under section 49

12. (1) Where the Court has made a declaration under section 37 of the Act in relation to a relevant person, or a declaration under section 55 of the Act in relation to a ward, the Court shall specify a date by which the review of the declaration for the purposes of section 49(2) of the Act must be listed for hearing and may direct the filing in the relevant court office and delivery to such person as is directed of any affidavit or other document, at such time as is specified by the Court.

(2) Where sub-rule (1) applies or where the High Court as the wardship court has made a declaration under section 55 of the Act in relation to a ward, the date and the place for the review of the declaration for the purposes of section 49(2) of the Act (in this rule, the “review date”) shall be fixed in the relevant court office and notified to the relevant person, the decision-making representative (or, as the case may be, co-decision-maker), and any other person directed by the High Court’s order to be put on notice of such review.

(3) Unless the Court otherwise directs or permits, the decision-making representative shall swear an affidavit addressing, and exhibiting any report addressing the matters required to be considered in a review. The affidavit shall be filed in the relevant court office and copies delivered to each of the persons put on notice of the review not later than 21 days before the review date by the decision-making representative.

(4) The proper officer may:

- (a) consult with the Judge for the purposes of fixing a review date or review dates generally;
- (b) consult with the proper officer of the High Court to obtain any document or information from that Court which may be necessary for the purposes of the review by the Court on a review date, or for the purposes of the determination by the Court of a Review Motion.

(5) Any person to whom documents have been delivered in advance of a review date may file and deliver a replying affidavit, or may apply by notice of motion returnable to the review date for relief under the Act.

(6) An application under section 49(1) of the Act for a review of a declaration shall be made by notice of motion in the Form 55E in the Schedule of Forms (in this rule, the “**Review Motion**”) which shall specify any order sought under section 49(4) of the Act.

(7) A Review Motion shall be grounded on an affidavit, which sets out the relevant changes which have occurred since the date of the declaration under section 37 or section 55 of the Act or, as the case may be, the previous review,

and exhibits any report referred to in sub-rule (9), and any document referred to in the affidavit which has not previously been exhibited.

(8) A Review Motion initiated by a person mentioned in paragraphs (b) to (i) of section 36(4) of the Act shall additionally include as a relief the consent of the Court to the bringing of the Review Motion by that person.

(9) Where a Review Motion relies on a report or an updated report of any registered medical practitioner or healthcare professional, the report or updated report shall, and

- (a) include details of the extent to which the person making the report has treated the relevant person and include details of any examination or assessment undertaken for the purposes of making the report;
- (b) report on matters within the person's expertise which relate to the capacity, of the relevant person considered in accordance with section 3 of the Act, to the extent relevant to the relief sought in the Review Motion, including any recovery or deterioration in the relevant person's condition since any previous report, and the likelihood of recovery of the relevant person's capacity.

(10) Where relevant to the relief sought in any Review Motion, an updated Statement of Particulars, verified on affidavit, may be filed.

(11) Unless such person is himself or herself the applicant, the moving party shall, not later than 21 days before the return date, serve copies of the Review Motion, grounding affidavits and any exhibits:

- (a) on the relevant person, who shall also be served with a form of reply in the Form 55F in the Schedule of Forms;
- (b) on any decision-making representative of the relevant person;
- (c) where a registered co-decision-making agreement is in force in accordance with Part 4 of the Act, on the co-decision-maker;
- (d) on any other person required by section 36(2) of the Act or directed by the Court to be served with the Review Motion.

(12) Any person served with a Review Motion shall be at liberty to file and serve a replying affidavit. Where any order sought in the Review Motion is opposed, the replying affidavit shall:

- (a) specify which order sought is opposed;
- (b) set out concisely the grounds of such opposition and verify any facts, and exhibit any documents, relied on in such opposition, and
- (c) where an alternative order is proposed, shall set out concisely the grounds for such proposal.

A copy of any replying affidavit (and any exhibits thereto) shall, subject to sub-rule (15), be served on the applicant and on every other person required by this rule to be served with the Review Motion not later than seven days before the return date.

(13) The applicant shall file in the relevant court office not later than four days before the return date of the Review Motion an affidavit or affidavits verifying service of the Review Motion on the relevant person and on each other person required to be served, and exhibiting any written response.

(14) The applicant shall file in the relevant court office not later than four days before the return date of the Review Motion an indexed booklet which shall contain copies of:

- (a) the order of the Court including the declaration under section 37 of the Act or, as the case may be, order of the wardship court including the declaration under section 55 of the Act and any subsequent orders in the matter, under section 49 of the Act or otherwise;
 - (b) the notice of motion, grounding affidavit or affidavits and any exhibits;
 - (c) an updated Statement of Particulars, where relevant;
 - (d) every updated medical or other report prepared for the purpose of the Review Motion application or intended to be relied on in the Review Motion;
 - (e) any other affidavit relied on by the applicant;
 - (f) any affidavit or other response delivered by or on behalf of any person served with the Review Motion;
 - (g) every affidavit of service;
- and may also include
- (h) any other document intended to be relied on at the hearing of the Review Motion.

(15) Notwithstanding sub-rule (12), every written response of the relevant person to the Review Motion, in whatever form, shall be placed before the Court on the return date.

Powers available on hearing of Review Motion

13. On the return date of the Review Motion, or on any adjournment from such date, the Court may proceed to hear and determine the Review Motion. Where it considers it necessary to do so, the Court may give such further directions and make such orders for the further conduct of the Review Motion as appear convenient for the determination of the matter in a manner which has regard to the guiding principles set out in section 8 of the Act and which is otherwise just, expeditious and likely to minimise the costs of the proceedings.

VII. Subsequent proceedings where a declaration has been made under Part 5 or Part 6 of the Act

Applications by notice of motion

14. (1) Where the Court has made a declaration under section 37 or section 55 of the Act in relation to a relevant person or person, all subsequent applications to the Court under the Act affecting or concerning that relevant person or person shall, unless the Court otherwise directs or permits, be made

by notice of motion in the proceedings for that declaration, bearing the same title and record number, and grounded upon an affidavit.

(2) Where the High Court as wardship court has made a declaration under section 55 of the Act in relation to a ward and made an order under section 55A(1) of the Act, that the capacity of the person be reviewed by the Court, the matter of the person shall be assigned a record number in the Court on receipt in the relevant court office of a copy of the High Court's order, and all subsequent applications to the Court under the Act affecting or concerning the person shall, unless the Court otherwise directs or permits, be made by notice of motion in the proceedings bearing that record number, grounded upon an affidavit.

(3) A notice of motion mentioned in sub-rule (1) or (2) shall be in the Form 55E in the Schedule of Forms. Where the notice of motion is served on a relevant person, there shall additionally be served with the notice of motion a form of reply in the Form 55F in the Schedule of Forms.

(4) The grounding affidavit shall:

- (a) set out the facts relied on in the application, and
- (b) exhibit every document relied upon in the application.

(5) Unless the Court otherwise directs or permits, copies of any notice of motion to which this rule applies and any grounding affidavit(s) and exhibit(s) shall be served in the first instance:

- (a) subject to any order of the Court, including any prior order, on the relevant person and/or his or her decision-making representative;
- (b) on any person against whom relief is sought in the application, and
- (c) on any other person likely to be affected by the granting or refusal of the relief sought in the application,

provided that the Court may direct service of the application on any other person.

(6) Any person served with the notice of motion shall be at liberty to file a replying affidavit, or to reply in such manner as the Court may otherwise direct or permit.

(7) Without limiting the generality of sub-rule (5), or the Court's power to direct service of a motion on any person:

- (a) in an application for an order under section 42(1) of the Act (save where such application is made on the appointment of the decision-making representative), the notice of motion shall name the decision-making representative as respondent;
- (b) in an application for the Court's approval under section 43(2) or section 44(3) of the Act, the notice of motion need not name any respondent;

- (c) in any application to the Court for a direction under section 46(2) or section 46(8)(b) of the Act, the notice of motion shall name the decision-making representative as respondent;
- (d) in any application to the Court for a determination under section 47(2)(a) of the Act, the notice of motion shall name the decision-making representative as respondent;
- (e) in any appeal to the Court under section 47(3) or section 47(7)(b) of the Act, the notice of motion shall be styled as a notice of appeal and shall name the Director as respondent.

Application relating to qualification of decision-making representative

15. In any application where it is alleged that a decision-making representative has become disqualified to be the decision-making representative of the relevant person, the grounding affidavit shall specify the precise event or circumstances giving rise to such disqualification referred to in section 40 of the Act which are relied on, and the facts which establish that such circumstances exist, and shall exhibit copies of any documents alleged to record or evidence the existence of such circumstances.

Application for directions by decision-making representative

16. In any application for directions of the Court by a decision-making representative, the grounding affidavit shall specify the precise event or circumstances giving rise to the requirement for such directions, and the facts which establish that such circumstances exist, and shall set out the expected or intended consequences (including, where relevant, any financial effects) of the directions sought.

Application to vary or discharge a decision-making order or decision-making representation order

17. (1) In any application for the variation or discharge of a decision-making order or decision-making representation order, the grounding affidavit shall set out the reasons for any variation sought, and shall, where relevant, exhibit and verify an updated Statement of Particulars in respect of the relevant person.

(2) Where any variation sought relates to an alleged change in the capacity of the relevant person, the application shall be supported by a report or updated report of a registered medical practitioner or healthcare professional; such report or updated report shall conform with the requirements of rule 4(4).

Application under section 46(8)(b) of the Act

18. An application for a determination under section 46(8)(b) of the Act shall be by motion on notice to the decision-making representative, and the grounding affidavit shall set out and, where in writing, exhibit, the relevant communications between the Director and the decision-making representative.

Application under section 47(2)(a) or appeal under section 47(3) or section 47(7)(b) of the Act

19. (1) An application by the Director under or in accordance with section 47(2)(a) of the Act (including in the circumstances specified in section 47(4A)

of the Act) for a determination shall be by motion on notice to the decision-making representative, and the grounding affidavit shall:

- (a) exhibit any relevant complaint made under section 47(1) of the Act;
- (b) set out the steps taken by the Director to investigate the matter;
- (c) set out the findings or provisional findings in such investigation;
- (d) exhibit any relevant material provided or received in the investigation, including any relevant communications passing between the Director and the decision-making representative concerned, which formed the basis of such findings or provisional findings (or any report of the investigation), and
- (e) state whether the findings or provisional findings have been contested by the decision-making representative concerned.

(2) An appeal under section 47(3) or section 47(7)(b) of the Act shall be by motion on notice to the Director, and the grounding affidavit shall exhibit the relevant complaint made under section 47(1) of the Act, and the notification and reasons provided under section 47(2)(b) or, as the case may be, section 47(7)(a) of the Act.

(3) Any affidavit of the Director in reply shall exhibit any relevant documents arising from the investigation which have not previously been exhibited.

(4) In any application by the Director under section 47(2)(a) of the Act and any appeal under section 47(3) or section 47(7)(b) of the Act, the notice of motion shall specify any matter specified in section 47(1) in relation to which a determination by the Court is sought in accordance with section 47(5) of the Act.

(5) The Court may direct service of the application or appeal on any other person.

VIII. Originating applications or appeals under the Act other than Parts 5 and 6: general

Originating applications other than under Part 5 or Part 6 by notice of motion

20. (1) Subject to rule 23, every originating application or appeal to the Court under the Act, other than an application under Part 5 or Part 6 of the Act, shall be commenced by originating notice of motion, which shall be signed by the applicant or (as the case may be) the appellant (in this part the “**applicant**”) or by his or her solicitor (if any).

(2) Without limiting the Court’s power to direct or dispense with service of a motion on any person, the following applications shall be by originating notice of motion *inter partes* in the Form 55E in the Schedule of Forms which shall name the moving party as the applicant and shall name each person against whom any relief is sought as a respondent:

- (a) an application under section 15(2)(a) of the Act for a determination, in which the respondent shall be the decision-making assistant or, as the case may be, the person against

whom any complaint or suspicion of any fraud, coercion or undue pressure is considered well-founded following the relevant investigation;

- (b) an application under section 26(5) of the Act for a determination, in which the respondents shall be the appointer and the co-decision-maker;
- (c) an application under section 30(2)(a) of the Act for a determination, in which the respondent shall be the co-decision-maker;
- (d) an application by an interested party under section 67 of the Act to exercise a power, in which the respondent shall be donor of the enduring power of attorney;
- (e) an application under section 68(4) of the Act for a determination on any question as to the validity of an enduring power of attorney, in which the respondent shall be the attorney where the application is made by the donor, and the respondent shall be the donor where the application is made by the attorney;
- (f) an application under section 71A(6) of the Act for a determination on any question as to the validity of an enduring power of attorney, in which the respondent shall be the donor;
- (g) an application under section 74(3) of the Act for consent to the resignation by the attorney from his or her role as attorney, in which the respondent shall be the donor;
- (h) an application under section 76(3)(a) of the Act for a determination, in which the respondent shall be the attorney or, as the case may be, the person against whom any complaint or suspicion of any fraud, coercion or undue pressure is considered well-founded following the relevant investigation;
- (i) an application under section 77(3) of the Act to determine a question or give directions or a consent, in which the respondents shall be the attorney and the donor (unless either is the applicant);
- (j) an application under section 88(4)(c)(ii) of the Act, in which the respondent shall be the designated healthcare representative;
- (k) an application under section 89(1) of the Act for a declaration, in which the respondent shall be the designated healthcare representative, but where the application is made by the designated healthcare representative; the respondent shall be the directive-maker;
- (l) any other application under the Act (other than Part 5 or Part 6) in which any relief is sought against any person.

(3) Without limiting the Court's power to direct service on any person, the following appeals under the Act (other than Part 5 or Part 6) shall be by originating notice of motion in the Form 55H in the Schedule of Forms to be

called a notice of appeal, which shall name the person intending to appeal as appellant and the Director as respondent:

- (a) an appeal under section 15(3) of the Act against a decision of the Director that a complaint is not well founded or under section 15(7)(b) of the Act against a decision of the Director not to investigate a complaint;
- (b) an appeal under section 22(4) of the Act against a refusal to register a co-decision-making agreement;
- (c) an appeal under section 24(5) of the Act against a decision to register a co-decision-making agreement;
- (d) an appeal under section 30(3) of the Act against a decision of the Director that a complaint is not well founded or under section 30(7)(b) of the Act against a decision of the Director not to investigate a complaint;
- (e) an appeal under section 69(5) of the Act against the refusal of an application under section 68 of the Act;
- (f) an appeal under section 71(5) of the Act against a decision to register an instrument;
- (g) an appeal under section 71B(4) of the Act against a decision concerning an objection to the proposed acceptance of a notification made under section 71A of the Act;
- (h) an appeal under section 71C(5) of the Act against a refusal by the Director to accept a notification made under section 71A of the Act;
- (i) an appeal under section 73A(4) of the Act against a notification by the Director under section 73A(3)(i) of the Act;
- (j) an appeal under section 75(7B) of the Act against a determination of the Director under section 75(7)(c) of the Act;
- (k) an appeal under section 76(4) of the Act against a decision of the Director that a complaint is not well founded or under section 76(6B)(b) of the Act against a decision of the Director not to investigate a complaint;
- (l) any other appeal under the Act (other than Part 5 or Part 6) against a decision or refusal of a decision by the Director.

(4) Where a notice of motion under this rule is served on a relevant person, there shall additionally be served with the notice of motion a form of reply in the Form 55F in the Schedule of Forms.

(5) Every originating notice of motion issued under this rule shall be assigned a return date before the Court.

(6) The originating notice of motion shall be grounded upon an affidavit sworn by or on behalf of the applicant which shall:

- (a) set out the grounds of the application or appeal and the material facts supporting such grounds;

- (b) verify the basis upon which jurisdiction is exercisable in the Circuit in respect of the application;
- (c) confirm the existence of, and exhibit copies of any relevant assisted decision-making agreement, co-decision-making agreement, advance healthcare directive, enduring power of attorney or enduring power under the 1996 Act (including any variation of same) made by a maker who would be affected by the application;
- (d) comply with the requirements of the Act and this Order.

Service of applications

21. (1) Unless the Court orders otherwise, or such person is himself or herself the applicant, the applicant shall serve copies of the originating notice of motion, grounding affidavit and any exhibits:

- (a) on any person named as a respondent;
- (b) on any relevant maker, and where such maker is a relevant person, on any other person required in the circumstances to be served in accordance with Order 6, rule 8;
- (c) on any other person required by the Act to be served with the application or appeal concerned, and
- (d) on any other person directed by the Court to be served with the application or appeal concerned,

by serving a copy of the originating notice of motion, grounding affidavit (and any exhibits), in the manner permitted by law for service of a Civil Bill, on each such person not later than 14 days before the return date.

(2) Without prejudice to the right to deliver a replying affidavit, a relevant person may reply to the application or appeal by completing the reply in Form 55F in the Schedule of Forms, and lodging with the proper officer and delivering a copy of the same to the applicant or appellant not later than seven days prior to the return date. Where the relevant person in his or her reply does not consent to the application or appeal, the applicant or appellant shall serve a copy of that reply on each person mentioned in sub-rule (1) in the manner required by that sub-rule.

(3) Any person served with an application or appeal shall be at liberty to file and serve an affidavit replying to the application or appeal. Where all or any part of the application or appeal is opposed, the replying affidavit shall specify the part or parts of the application or appeal which are not opposed and those which are opposed and shall set out concisely the grounds of any opposition to the application or appeal and verify any facts relied on. A copy of such affidavit (and any exhibits thereto) shall be served on the applicant or appellant and on every other person required to be served with the application or appeal not later than seven days before the return date.

(4) Notwithstanding sub-rules (2) and (3), every written response of the relevant person or the maker, as the case may be, to the application or appeal, in whatever form, shall be placed before the Court on the return date.

Hearing of applications

22. On the return date of an application or appeal under the Act (other than an application under Part 5 or Part 6) or on any adjournment from such date, the Court may proceed to hear and determine the application or appeal. Where the application or appeal is not determined on such date, and where it considers it necessary to do so, the Court may give such directions and make such orders for the further conduct of the application or appeal as appear convenient for the determination of the matter in a manner which has regard to the guiding principles set out in section 8 of the Act, where applicable, and which is otherwise just, expeditious and likely to minimise the costs of the proceedings.

Subsequent applications

23. (1) Where an originating application to the Court for an order under the Act (other than an application under Part 5 or Part 6) in relation to a person has been determined, all subsequent applications to the Court under the Act (other than Part 5 or Part 6) within the Circuit concerned affecting or concerning that maker shall, unless the Court otherwise directs or permits, be made by notice of motion in the proceedings on the originating application, grounded upon an affidavit setting out the facts relied on in the application and complying with the requirements of the Act and this Order.

(2) Any person served with the notice of motion shall be at liberty to file a replying affidavit.

Service of subsequent motions

24. (1) Copies of any notice of motion, grounding affidavit and any exhibits shall, unless the Court orders otherwise, be served:

- (a) on any person named as a respondent;
- (b) on any relevant maker, and where such maker is a relevant person, on any other person required in the circumstances to be served in accordance with Order 6, rule 8;
- (c) on any other person required by the Act to be served with the application or appeal concerned, and
- (d) on any other person directed by the Court to be served with the application or appeal concerned.

(2) Without prejudice to the right to deliver a replying affidavit, a relevant person may deliver a written reply to the application, which shall be sent to the applicant and the proper officer not later than seven days prior to the return date. Where the relevant person in his or her reply does not consent to the application, the applicant shall serve a copy of that reply on each person mentioned in sub-rule (1) in the manner required by that sub-rule.

(3) Where all or any part of the application is opposed by a person served with the notice of motion, that person's replying affidavit shall specify the part or parts of the application which are not opposed and those which are opposed and shall set out concisely the grounds of any opposition to the application and verify any facts relied on in opposing the application. A copy of such affidavit (and any exhibits thereto) shall be served on the applicant and on every other

person required to be served with the application not later than seven days before the return date.

- (4) The applicant shall produce on the return date an affidavit:
- (a) verifying service of the application or appeal on every person served, and
 - (b) specifying the response, if any, received from each person served and exhibiting every such response which is in writing.

(5) Notwithstanding sub-rules (2) and (3), every written response of the relevant person or the maker, as the case may be, to a notice of motion, in whatever form, shall be placed before the Court on the return date.

IX. Proceedings concerning assisted decision-making: Part 3 of the Act

Complaint concerning decision-making assistant: section 15

25. In any application by the Director under or in accordance with section 15(2)(a) of the Act for a determination, the grounding affidavit shall exhibit any relevant complaint made under section 15(1) of the Act, any relevant documents arising from the investigation, and any relevant written communications passing between the Director and the decision-making assistant and/or other respondent to the complaint, as appropriate.

Appeal against rejection of complaint concerning decision-making assistant: section 15

26. (1) In any appeal under section 15(3) or 15(7)(b) of the Act, the grounding affidavit shall exhibit the relevant complaint made under section 15(1) of the Act, and the notification and reasons provided under section 15(2)(b) or, as the case may be, section 15(7)(a) of the Act.

(2) Any affidavit of the Director in reply shall exhibit any relevant documents arising from the investigation.

Particulars of matter to which determination or appeal relates: section 15

27. In any application by the Director under section 15(2)(a) of the Act and any appeal under section 15(3) or section 15(7)(b) of the Act, the originating notice of motion shall specify any matter specified in section 15(1) of the Act in relation to which a determination by the Court is sought in accordance with section 15(5) of the Act.

X. Proceedings concerning co-decision-making: Part 4 of the Act

Appeal against refusal to register: section 15

28. In any appeal under section 22(4) of the Act against a decision of the Director to refuse to register a co-decision-making agreement, the grounding affidavit shall exhibit the application and accompanying documents; any notification under section 22(2)(b) of the Act and response thereto, and any notification under section 23(3)(b) of the Act.

Appeal against decision to register: section 24

29. (1) In any appeal under section 24(5) of the Act, the grounding affidavit shall set out and, if in writing, exhibit, the relevant objection made

under section 24(1) of the Act, and the notification and reasons provided under section 24(3) of the Act.

(2) Any affidavit of the Director in reply shall exhibit any relevant documents arising from the review and consultation undertaken.

Application for determination: section 26

30. In any application by the Director under section 26(5) of the Act for a determination on a matter in accordance with that section, the grounding affidavit shall exhibit the notification (and if separately provided, any written reasons) under section 26(4) of the Act, any relevant documents arising from the enquiries made, and any written response delivered under section 26(5) of the Act.

Appeal against determination: section 27

31. (1) In any appeal under section 27(4B) of the Act, the grounding affidavit shall exhibit the report, if any, submitted, under section 27(1) of the Act; the notification under section 27(3) of the Act and any written response delivered to that notification, and the determination and reasons provided under section 27(4A) of the Act.

(2) Any affidavit of the Director in reply shall exhibit all other relevant documents.

Application for determination on complaint against co-decision-maker: section 30

32. In any application by the Director under or in accordance with section 30(2)(a) of the Act (including in the circumstances specified in section 30(4B) of the Act) for a determination, the grounding affidavit shall exhibit any relevant complaint made under section 30(1) of the Act, any relevant documents arising from the investigation, and any relevant written communications passing between the Director and the co-decision-maker and/or other respondent to the complaint, as appropriate.

Appeal against rejection of complaint concerning co-decision-maker: section 30

33. (1) In any appeal under section 30(3) or section 30(7)(b) of the Act, the grounding affidavit shall exhibit the relevant complaint made under section 30(1) of the Act, and the notification and reasons provided under section 30(2)(b) or, as the case may be, section 30(7)(a) of the Act.

(2) Any affidavit of the Director in reply shall exhibit any relevant documents arising from the investigation.

Particulars of matter to which determination or appeal relates: section 30

34. In any application by the Director under section 30(2)(a) of the Act and any appeal under section 30(3) or section 30(7)(b) of the Act,

- (a) the originating notice of motion shall specify any matter specified in section 30(1) in relation to which a determination by the Court is sought in accordance with section 30(5) of the Act and

- (b) the grounding affidavit shall set out any matters within the knowledge of the Director or (as the case may be) appellant to which the Court is, under section 32 of the Act, required to have regard.

XI. Proceedings concerning enduring powers of attorney: Part 7 and section 120 of the Act

Documents to be produced on application relating to power of attorney

35. (1) In any proceedings concerning an enduring power of attorney, the originals or true copies of the following documents shall, if available, be exhibited to the grounding affidavit:

- (a) the instrument creating the enduring power of attorney;
- (b) where relevant, written evidence of any application for registration, or registration, of the enduring power of attorney;
- (c) where relevant, any written objection under section 71 of the Act to registration of the enduring power of attorney;
- (d) where relevant and if in writing, any notification and statement of reasons provided by the Director in accordance with section 71(3)(i) of the Act;
- (e) where relevant and if in writing, any notification provided by the Director in accordance with section 71(3)(ii) of the Act;
- (f) any written variation of the enduring power of attorney and where relevant, written evidence of any application for registration, or registration, of the varied enduring power of attorney and the statements under section 73(4) of the Act accompanying same;
- (g) where relevant, any report under section 75 of the Act;
- (h) where relevant, any written complaint made under section 76 of the Act;
- (i) where relevant and if in writing, any notification and statement of reasons provided by the Director in accordance with section 76(3)(a) of the Act;
- (j) where relevant and if in writing, any notification provided by the Director in accordance with section 76(3)(b) of the Act.

(2) If a document is not exhibited in accordance with sub-rule (1), the grounding affidavit shall explain why any such document is not produced, and any respondent or notice party filing an affidavit shall, if such document is available to him or her, exhibit the same.

Applications by motion

36. (1) The following applications to the Court shall be made on notice to the donor and the attorney:

- (a) an application by an interested party under section 67 of the Act for the exercise of a power referred to in that section prior to the registration of the instrument creating such power;

- (b) an application pursuant to section 68(4) of the Act by the donor or the attorney referring to the Court for its determination any question as to the validity of the power;
- (c) an application pursuant to section 71A(6) of the Act by the attorney referring to the Court for its determination any question as to the validity of the power.

(2) An application referred to in sub-rule (1) shall be grounded upon the affidavit of the interested party or the donor or attorney (as the case may be), and shall fully set out the facts and circumstances giving rise to the application. In particular the affidavit shall contain the following matters:

- (a) the present address of the donor;
- (b) the date on which the instrument creating the enduring power of attorney was executed in accordance with section 60 of the Act;
- (c) the name and current address of the legal practitioner who made in the instrument the statement required by section 60(1)(b) of the Act;
- (d) the name and current address of the registered medical practitioner or healthcare professional who made in the instrument the statement required by section 60(1)(c) of the Act, and
- (e) the date on which and the persons to whom notice of was given in accordance with section 68(3) of the Act,

and the affidavit shall exhibit the power of attorney concerned and all other relevant documentation.

(3) The Court may, upon such application, make such order as appears appropriate in the circumstances including an order adjourning the application and directing that notice of the application be served upon any person likely to be affected thereby or may adjourn such application until it makes or causes to be made such enquiries or further enquiries, if any, as it thinks appropriate in the circumstances of the case and upon such terms and conditions as appear just.

Application concerning donor's capacity prior to registration: section 67

37. In any application under section 67 of the Act, the grounding affidavit shall set out the basis on which it is alleged that there is reason to believe that the donor lacks capacity in relation to one or more relevant decisions and where a report of any registered medical practitioner or healthcare professional is relied on, such report shall be exhibited.

Application to determine question of validity of power of attorney: section 68(4) or section 71A(6)

38. In any application under section 68(4) of the Act or section 71A(6) of the Act for a determination on any question as to the validity of the power, the notice of motion shall state concisely the question to be determined and the grounding affidavit shall set out and verify the facts giving rise to the question.

Appeal against refusal to register power of attorney: section 69

39. (1) An appeal by a donor under section 69(5) of the Act against a refusal by the Director to register an enduring power of attorney shall be grounded on an affidavit exhibiting the notification of refusal and setting out the grounds of appeal of such refusal.

(2) On the return date of the motion, the Court may direct service of the proceedings on any other person.

(3) The grounding affidavit shall exhibit:

- (a) the application and any accompanying documents;
- (b) if available to the applicant:
 - (i) a copy of the relevant application for registration made under section 68 of the Act;
 - (ii) copies of any relevant objections under section 71 of the Act;
 - (iii) copies of the notifications and any responses under section 69(3) of the Act, and
 - (iv) copies of the notification under section 69(4)(b) of the Act.

(4) Any affidavit of the Director in reply shall exhibit any relevant documents arising from his or her enquiries and copies of any relevant objections under section 71 of the Act which have not been exhibited to the grounding affidavit.

Appeal by objector: section 71

40. (1) An appeal under section 71(5) of the Act by a person who has made an objection under section 71(1) of the Act shall be made on notice to the Director, the donor and the attorney, grounded on an affidavit which shall exhibit copies of:

- (a) the relevant application for registration made under section 68 of the Act;
- (b) the relevant objection made under section 71(1) of the Act,
- (c) any relevant documents arising from the review and consultation undertaken in accordance with section 71(3) of the Act, and
- (d) the notification under section 71(3) of the Act.

(2) The notice of motion shall set out the grounds of appeal.

(3) On the return date of the motion, the Court may direct service of the proceedings on any other person.

Appeal against refusal to accept objection to acceptance of notification: section 71B

41. (1) An appeal under section 71B(4) of the Act against a decision of the Director under section 71B(3) shall be grounded on an affidavit which shall exhibit copies of:

- (a) the relevant notification made under section 71A of the Act;
- (b) any relevant objections made under section 71B(1) of the Act;
- (c) any relevant documents arising from the review and consultation undertaken in accordance with section 71B(3) of the Act, and
- (d) the notification under section 71B(3) of the Act.

(2) The notice of motion shall set out the grounds of appeal.

(3) On the return date of the motion, the Court may direct service of the proceedings on any other person.

(4) Any affidavit of the Director in reply shall exhibit any relevant documents arising from his or her enquiries and copies of any relevant objections under section 71B of the Act which have not been exhibited to the grounding affidavit.

Appeal against refusal to accept notification: section 71C

42. (1) An appeal under section 71C(5) of the Act against a refusal by the Director to accept a notification made under section 71A of the Act shall be grounded on an affidavit which shall exhibit copies of:

- (a) the relevant notification made under section 71A of the Act;
- (b) any relevant objections made under section 71B(1) of the Act;
- (c) any relevant documents arising from the review and consultation undertaken in accordance with section 71C(3) of the Act, and
- (d) the notification under section 71C(4)(b) of the Act.

(2) The notice of motion shall set out the grounds of appeal.

(3) On the return date of the motion, the Court may direct service of the proceedings on any other person.

(4) Any affidavit of the Director in reply shall exhibit any relevant documents arising from his or her enquiries and copies of any relevant objections under section 71B of the Act which have not been exhibited to the grounding affidavit.

Appeal against notification that request under section 73A(1) is not well-founded: section 73A(4)

43. (1) An appeal under section 73A(4) of the Act against a notification by the Director under section 73A(3)(i) of the Act that a request made under section 73A(1) of the Act is not well-founded shall be grounded on an affidavit which shall exhibit copies of:

- (a) the relevant request made under section 73A(1) of the Act and accompanying documents;
- (b) any relevant documents arising from the review and consultation undertaken in accordance with section 73A(3) of the Act, and
- (c) the notification under section 73A(3)(i) of the Act.

(2) The notice of motion shall set out the grounds of appeal.

(3) On the return date of the motion, the Court may direct service of the proceedings on any other person.

(4) Any affidavit of the Director in reply shall exhibit any relevant documents arising from his or her enquiries and copies of any relevant objections under section 71B of the Act which have not been exhibited to the grounding affidavit.

Application to consent to resignation as attorney: section 74(3) or section 77(3)(c)

44. (1) An application for an order under section 74(3) of the Act or under section 77(3)(c) of the Act consenting to a resignation by the attorney of his or her role as attorney, shall be made on notice to the donor and the Director, grounded on an affidavit.

(2) The grounding affidavit shall set out the reasons for the attorney's wish to disclaim the power or, as the case may be, resign the role, and shall:

- (a) verify any facts supporting such reasons, and
- (b) shall set out and verify any proposals for alternative arrangements to protect the interests of the donor in the event that consent is given.

(3) On the return date of the motion, the Court may direct service of the proceedings on any other person.

Appeal of determination of whether attorney should continue to act: section 75

45. (1) In any appeal under section 75(7B) of the Act, the grounding affidavit shall exhibit:

- (a) where relevant, any schedule and/or projected statement submitted under section 75(1) of the Act;
- (b) where relevant, any accounts or records referred to in section 75(2) of the Act;
- (c) where relevant, any report submitted under section 75(3) of the Act;
- (d) the notification under section 75(6) of the Act and any written response delivered to that notification, and
- (e) the determination under section 75(7)(c) of the Act and the reasons provided under section 75(7A) of the Act.

(2) Any affidavit of the Director in reply shall exhibit all other relevant documents.

Applications and appeals in relation to complaints concerning attorneys: section 76

46. (1) In any application by the Director under or in accordance with section 76(3)(a) of the Act (including in the circumstances specified in section 76(5B) of the Act) and any appeal under section 76(4) or section 76(6B)(b) of the Act, the originating notice of motion shall specify any matter specified in

section 76(1) or section 76(2) in relation to which a determination by the Court is sought in accordance with section 76(3)(a) of the Act.

(2) In any application by the Director under section 76(3)(a) of the Act, the grounding affidavit shall exhibit any relevant complaint made under section 76(1) of the Act, any relevant documents arising from the investigation and any relevant written communications passing between the Director and

- (a) the attorney;
- (b) the donor, and
- (c) any other respondent to the complaint, as appropriate.

(3) In any appeal under section 76(4) or section 76(6B)(b) of the Act -

- (a) the grounding affidavit shall exhibit the relevant complaint made under section 76(1) of the Act, and the notification and reasons provided under section 76(3)(b) or, as the case may be, section 76(6B)(a) of the Act,
- (b) any affidavit of the Director in reply shall exhibit any relevant documents arising from the investigation.

Application for determination of question of meaning or effect of power of attorney: section 77

47. In any application under section 77(3) of the Act for the determination of any question as to the meaning or effect of a power, the notice of motion shall state concisely the question to be determined and the grounding affidavit shall set out and verify the facts giving rise to the question.

Application for directions: section 77

48. In any application under section 77(3) of the Act for directions, the grounding affidavit shall -

- (a) where the directions sought relate to a relevant decision relating to the personal welfare of the donor made or about to be made by the attorney, set out and verify such particulars concerning the personal welfare of the donor as would be required to be included in a Statement of Particulars in an application under Part 5 of the Act in relation to a relevant person,
- (b) where the directions sought relate to the management or disposal by the attorney of the property and affairs of the donor, set out and verify such particulars concerning the property and affairs of the donor as would be required to be included in a Statement of Particulars in an application under Part 5 of the Act in relation to a Relevant Person and
- (c) where the directions sought relate to the remuneration or expenses of the attorney, include or exhibit all relevant estimates, invoices, vouchers and/or receipts in respect of any remuneration or expenses incurred or anticipated or likely to be incurred, and:
 - (i) in the case of any professional service which is charged by reference to time spent, shall show in each case the time

spent, or time estimated as likely to be spent by each relevant professional in providing each relevant element of the service, and the rate charged or proposed for the time of each relevant professional or

- (ii) in the case of any professional service which is charged on some other basis, set out the basis of charging and the calculation of the fees charged or proposed to be charged.

Notice to Director: section 77

49. The requirement in section 77(4) of the Act that:

- (a) a determination given by the Court under section 77(3)(a) of the Act, or
- (b) a direction under section 77(3)(b) of the Act, or
- (c) a consent given by the Court under section 77(3)(c) of the Act,

be notified to the Director shall be satisfied by the transmission by the registrar of the Court to the Director, by registered post or by such other means including electronic means as are agreed by the registrar with the Director, of a copy of the Court's order giving such determination, direction or consent.

Particulars to be provided where disapplication or modification of a power sought under Part 11

50. In any proceedings concerning an enduring power of attorney in which the Court is asked, in exercising jurisdiction under Part 11 of the Act, to disapply or modify an enduring power of attorney under section 120 of the Act:

- (a) the originating notice of motion shall specify the relief sought in accordance with Part 11 of the Act, and
- (b) the grounding affidavit shall:
 - (i) set out the facts and circumstances based on which it is alleged that the enduring power of attorney is not exercised in a manner sufficient to guarantee the protection of the person or property of the donor;
 - (ii) verify the facts relied on, and
 - (iii) set out, explain and verify any facts supporting any application for modification of the power.

XII. Proceedings concerning advance healthcare directives: Part 8 of the Act

Documents to be produced on application relating to advance healthcare directive

51. (1) In any proceedings concerning an advance healthcare directive, the originals or true copies of the instrument creating the advance healthcare directive shall, if available, be exhibited to the grounding affidavit.

- (2) If the instrument is not exhibited in accordance with sub-rule (1), -
- (a) the grounding affidavit shall explain why it has not been produced, and
 - (b) any respondent or notice party filing an affidavit shall, if the instrument is available to him or her, exhibit same.

(3) In any application to the Court under Part 8 of the Act, the grounding affidavit shall additionally, in accordance with section 92(4) of the Act, state-

- (a) the applicant's connection with the directive-maker,
- (b) the benefit to the directive-maker sought to be achieved by the application, and
- (c) the reasons why the application is being made, in particular—
 - (i) the reason why the benefit to the directive-maker sought to be achieved has failed to be achieved in any other appropriate and practicable manner taken prior to the making of the application, and
 - (ii) the reason why, in the opinion of the applicant, no other appropriate and practicable manner to achieve that benefit remains to be taken prior to the making of the application;

and shall set out the grounds supporting such reasons and verify the material facts relied on as establishing such reasons.

(4) In any proceedings concerning an advance healthcare directive, the notice of motion shall include a statement (which shall be verified in the grounding affidavit) that the application is not one to which section 89(2) of the Act applies.

Application by Director following investigation: section 88

52. In any application under section 88(4)(c)(ii) of the Act, the grounding affidavit shall exhibit:

- (a) any relevant complaint or allegation received under section 88(4)(a) of the Act (if in writing),
- (b) any relevant documents arising from the investigation, and
- (c) any written communications passing between the Director and the designated healthcare representative.

Application for declaration: section 89

53. In any application within the jurisdiction of the Court under section 89(1) of the Act for, or including a claim for, a declaration in connection with an advance healthcare directive, the notice of motion shall specify concisely the declaration sought in the application and the grounding affidavit shall set out and verify the facts giving rise to the requirement for such a declaration.

Application for consent to making of application under Part 8 by person not specified in section 92(3): section 92

54. (1) An application under section 92(2) of the Act for the consent of the Court to the making of an application under Part 8 of the Act shall be made by motion *ex parte* in the Form 55G in the Schedule of Forms grounded on an affidavit of the applicant. The grounding affidavit, in addition to complying with the requirements of this Order, shall:

- (a) provide any information within the deponent's knowledge as to why the application under Part 8 of the Act concerning the relevant person concerned has not been made, or cannot be made, by a person mentioned in section 92(3) of the Act, and
- (b) exhibit the originating notice of motion or notice of motion and affidavit grounding the application intended to be made under Part 8 of the Act.

(2) The Court may adjourn any such application and may direct that it be made on notice to a person mentioned in section 92(3) of the Act identified in the Court's direction.

(3) A copy of any order made under section 92(2) of the Act giving consent shall be served by the applicant on the directive-maker and on any other person on whom the Court directs service.

XIII. Prohibition orders: Part 9 of the Act

Application for temporary prohibition order: section 96A

55. (1) Where no application for a declaration under section 37 or section 55 of the Act in relation to the relevant person has been determined by the Court, an application to the Court under section 96A(1) of the Act for a temporary prohibition order shall:

- (a) if made *ex parte*, be brought by originating notice of motion *ex parte* in the Form 55E in the Schedule of Forms, or
- (b) if made *inter partes* in the first instance, be brought by originating notice of motion in the Form 55E in the Schedule of Forms, to be served on the decision-making assistant, co-decision-maker, or, as the case may be, attorney, in respect of whom the temporary prohibition order is sought.

The originating notice of motion shall be entitled in the matter of Part 9 of the Act and in the matter of the relevant person, and between the Director as applicant and the decision-making assistant, co-decision-maker, or, as the case may be, attorney, as respondent.

(2) Where an application for a declaration under section 37 or section 55 of the Act in relation to the relevant person has been determined by the Court, then in accordance with rule 14(1), an application to the Court under section 96A(1) of the Act for a temporary prohibition order shall:

- (a) if made *ex parte*, be brought by motion *ex parte* in the Form 55E in the Schedule of Forms in the proceedings under the Act in relation to the relevant person, or

- (b) if made *inter partes* in the first instance, be brought by notice of motion in the Form 55E in the Schedule of Forms, in the proceedings under the Act in relation to the relevant person, to be served on the decision-making assistant, co-decision-maker, decision-making representative, or, as the case may be, attorney, in respect of whom the temporary prohibition order is sought.
- (3) The originating notice of motion or notice of motion under sub-rule (1) or (2) shall additionally:
- (a) set out in a summary form the material facts upon which the application is based;
 - (b) state the grounds of the application, and
 - (c) be verified by the affidavit sworn by or on behalf of the Director (which shall comply with the requirements of section 96A(2) of the Act, where applicable).
- (4) Any respondent on whom an originating notice of motion is served under sub-rule (1) or a notice of motion is served under sub-rule (2) may deliver and file a replying affidavit.
- (5) On the hearing of an application in accordance with this rule, the Court may give directions as to the service of notice of the application and of any order made on any other person, including mode of service and the time allowed for such service (and the Court may for that purpose adjourn the hearing of such application to a date specified).

XIV. Proceedings under the Convention for the International Protection of Adults: Part 11 of the Act

Motion in proceedings under the Convention for the International Protection of Adults

56. (1) In any proceedings in which relief is sought from the Court in exercise of its functions as a judicial authority under the Convention for the International Protection of Adults, as conferred by Chapter 2 of Part 11 of the Act, the originating notice of motion or notice of motion shall specify the precise reliefs sought by reference to the Convention.

(2) In any proceedings to which sub-rule (1) applies, the grounding affidavit shall state the basis upon which the Court is alleged to have jurisdiction.

(3) In:

- (a) any proceedings for a declaration of recognition under section 125 of the Act;
- (b) any proceedings for a declaration of enforceability under section 127 of the Act, or
- (c) any other proceedings in which measures of a temporary character are sought in accordance with Article 11(1) of the Convention and the Act,

the grounding affidavit shall:

- (i) identify the Contracting State in which measures have been taken and exhibit a copy of any such measure if in writing and a certified translation thereof into Irish or English;
- (ii) where relevant, provide information on the nature of the measures taken by reference to section 112 of the Act.

(4) Where relief affecting any relevant person in the State is sought in an application mentioned in sub-rule (1), copies of the originating notice of motion, grounding affidavit and any exhibits shall be served on the relevant person in the manner provided in rule 5(2).

(5) Any application to the Court to exercise jurisdiction under Part 11 of the Act in accordance with section 120 of the Act to disapply or modify an enduring power of attorney shall be made in accordance with rule 50.

(6) Any direction to the central authority in the State to make any communication in accordance with section 131, section 133 or section 134 of the Act may be notified to the central authority in the State by the transmission by the registrar of the Court to the central authority in the State, by registered post or by such other means including electronic means as are agreed by the registrar with the central authority in the State, of a copy of the Court's order including any such direction.

XV. General

Remote participation in hearings

57. Where a direction under section 11 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 for the time being directs or authorises the participation by a relevant person or by any other person in proceedings under the Act by way of remote hearing, there shall be served together with the Capacity Application on the relevant person or other person concerned details enabling such person's participation in the hearing by means of electronic communications technology.

Costs

58. The Court may make such order as to costs and expenses of and incidental to proceedings under the Act as shall seem right, including an order measuring the costs.

Notification of death of relevant person

59. Upon the death of any relevant person in respect of whom a declaration is in force under section 37(1) or section 55(1) of the Act, it shall be the duty of any decision-making representative appointed by the Court to notify the proper officer accordingly and to deliver a copy of the death certificate to the proper officer.

Electronic or other notifications in urgent cases

60. Notwithstanding any provision of these Rules concerning service of documents, the Court may, in any case it considers urgent, direct that notification by electronic mail, telephone or other means, to a person or

persons required to be served with a document or given notice, shall be sufficient in the circumstances.

Delivery of documents, etc by electronic means

61. Where so required by the proper officer, a party to proceedings under the Act shall additionally lodge or file copies of notices or documents in the relevant court office by electronic means.

Affidavit may be sworn before originating document issued

62. Any affidavit grounding a Capacity Application, a Discharge Application, a Review Motion, or an originating notice of motion under the Act may be entitled in the matter of the application, and may be sworn notwithstanding that the originating notice of motion has not yet been issued.

Proceedings heard on affidavit unless otherwise directed

63. Subject to any order or direction of the Court, all proceedings in the Court under the Act shall be heard and determined on affidavit.

Title of proceedings

64. (1) All proceedings under the Act shall be entitled in the matter of the Act and in the matter of the name of the relevant person or of the other person who would be directly affected by the granting or refusal of the relief sought in the originating application concerned.

(2) The originating document or notice of motion in proceedings under the Act shall in every case show on its face the provision of the Act under which the application is made and the name of every moving party.

Codes of practice

65. Where any code of practice published in accordance with section 91 or section 103 of the Act is alleged to be relevant to any application to the Court under the Act:

- (a) a copy of such code of practice authenticated as required by the Act shall be produced on the hearing of the application concerned, or
- (b) a copy of such code of practice shall be exhibited on affidavit.

Power to dispense with requirements

66. Where it considers it necessary, the Court may dispense with any requirement of these Rules as to information or evidence to be provided.”

Schedule 2

Form 55A

An Chúirt Chuarda

The Circuit Court

Capacity Application

Record Number: ...

Circuit ...

County ...

**In the Matter of Part 5 of the Assisted Decision-Making (Capacity) Act
2015,**

as amended

And In the Matter of

Relevant Person

Name: ...

Address: ...

Application of

Applicant(s)

Name(s): ...

Address(es): ...

TAKE NOTICE that on

Date of Hearing: ...

at Time: ...

Court Venue: ...

the applicant will apply for orders as set out in this document:

At the time this application is made, the relevant person: (Please select one)

Resides in this Circuit

Carries on business in this Circuit, please provide address below

...

Has resided in this Circuit at any time during the last 3 years, please provide address below

...

Specify which of the following orders are intended to be sought

What declarations are you applying for? (Please select all that apply)

A declaration under Section 37(1)(a), that the Relevant Person lacks capacity, unless the assistance of a suitable person as a co-decision maker is made available to him/her to make the below decisions jointly with him/her in relation to his/her:

Personal welfare

Property and affairs

Please give details below

...

|| A declaration under Section 37(1)(b), that the Relevant Person lacks capacity even if the assistance of a suitable person as a co-decision maker were made available to him/her to make the below decisions in relation to his/her:

- || Personal welfare
- || Property and affairs

Please give details below

...

|| A declaration under section 37(3) of the Act as to the lawfulness of the following intervention in respect of the Relevant Person (please give details): ...

Which order are you applying for? (Please select all that apply)

|| An order under section 38(2)(a) of the Act making the following decision(s) as outlined below, on behalf of the Relevant Person, where the court is satisfied that the matter is urgent or expedient (please give details):

...

|| An order under section 38(2)(b) of the Act to appoint a decision-making representative for the Relevant Person for the following decisions (please give details): ...

|| An interim order under section 48 of the Act providing for (please give details): ...

Do you know of a suitable person who would be willing to act as a decision-making representative for the Relevant Person?

If yes, please provide details of this person in Form 55B.

- || Yes
- || No

Signatures:

Signature of applicant(s)/Solicitor for applicant(s): ...

Date: ...

Solicitor Details (if applicable)

Name and Address of Solicitor: ...

Email: ...

Phone Number: ...

To:

Name and Address of Court office: ...

Name and address of Notice Party(s) (if applicable): ...

You should consider taking legal advice on this document.

If you are the Relevant Person to whom this Capacity Application relates (i.e. the person in respect of whom a declaration concerning capacity is sought), you may reply to the application by completing Form 55C (or if you have a solicitor, your solicitor may do so). Copies of the

completed form should be sent to the applicant or applicant's solicitor at the address given above and to the Court Office at the address above at least seven days before the hearing date.

You are also free to deliver evidence by affidavit or, if the Court permits, in another manner. If you have a solicitor, he or she can advise you about this. You may attend the hearing in person and/or your solicitor can attend on your behalf.

Form 55B

An Chúirt Chuarda
The Circuit Court

Record Number:

...

Capacity Application: Statement of Particulars

Part 5 of the Assisted Decision-Making (Capacity) Act 2015, as amended

This form must be completed for all applications.

All information provided must be verified by affidavit**A) Details of the Relevant Person:**

Name: ...

Date of Birth: ...

Phone Number: ...

Marital/civil partnership status: ...

B) Relationship of the applicant(s) to the Relevant Person:

What is the applicant's relationship or connection to the Relevant Person or the capacity in which the applicant makes the application? (Please select one)

- I am the Relevant Person
- The Director
- The spouse or civil partner of the Relevant Person
- A decision-making assistant for the Relevant Person
- A decision-making representative for the Relevant Person
- The co-habitant of the Relevant Person
- A co-decision-maker for the Relevant Person
- A designated healthcare representative for the Relevant Person
- An attorney acting under an enduring power of attorney for the Relevant Person
- A child of the Relevant Person who has attained the age of 18 years
- A person specified for that purpose in an existing order of the court under this Part where the application relates to that order
- A person / body prescribed by Ministerial regulations under section 36(4)(k)
- If the application relates, whether in whole or in part, to the Relevant Person's capacity to make a decision to consent to being married or to being in a civil partnership
- a registrar within the meaning of section 17 of the Civil Registration Act 2004
- the other party to the proposed marriage or civil partnership (if any), as the case may be, of the Relevant Person

C) If the applicant's relationship type is not listed in the previous section:

Has consent from the Court been given under section 36(3) of the Assisted Decision-Making (Capacity) Act 2015?

Yes

No

Where consent has been given by the Court, a copy of the court order must be exhibited to the grounding affidavit.

Explain the applicant's interest in the Relevant Person's welfare:

Circumstances of Application

This must be completed for all applications

D) Previous discussions:

Has the applicant discussed or considered the making of this application with the Relevant Person?

Yes

No

Please give details including their response, if any:

Has the applicant(s) discussed or considered the making of this application with any other person(s) mentioned in B above?

Yes

No

Please give details including their response, if any: ...

E) Details of the Relevant Person:

Set out a summary of the material facts (and identify the source of any such information) relevant to this application which will assist the Court in making a declaration as to the capacity of the Relevant Person.

Please provide information in relation to the following if relevant to the application:

The health of the Relevant Person (example: eyesight, hearing, dietary requirements): ...

The current living arrangements and individual circumstances of the Relevant Person (example: do they live at home, alone or with someone, and if so, have they a carer or other support? Are they in a hospital or nursing home?): ...

Is the Relevant Person currently or have they ever been a ward of court?

Yes

No

If yes, please give details: ...

Any other information about the Relevant Person which may be relevant to the determination of this application: ...

F) Benefits of this application:

Explain the benefit to the Relevant Person sought to be achieved by this application:

G) Reasons for this application:

In the case of an application under Part 5 of the Assisted Decision-Making (Capacity) Act 2015, explain the reason why the benefit to the Relevant Person sought to be achieved has failed to be achieved in any other appropriate, practicable and less intrusive manner (example: assisted decision-making; co-decision-making) taken prior to the making of this application:

Explain the reason why you believe that no other appropriate, practicable and less intrusive manner to achieve that benefit (example: assisted decision-making; co-decision-making) remains to be taken prior to the making of this application:

H) Any relevant agreements, instruments or court orders affecting the Relevant Person:

To the best of your knowledge, has the Relevant Person created any of the following:

A decision-making assistance agreement

- Yes
- No

A co-decision-making agreement

- Yes
- No

An enduring power of attorney under the ADMC Act 2015

- Yes
- No

An enduring power of attorney under the Powers of Attorney Act 1996

- Yes
- No

An advance healthcare directive

- Yes
- No

To the best of your knowledge, has either of the following been made in relation to the Relevant Person:

A decision-making representation order

- Yes
- No

A decision-making order

Yes

No

If you answered yes to any of the above, please give details: ...

If you have a copy of any such agreement, instrument or court order, a copy must be exhibited to the grounding affidavit.

I) Please set out what you understand of the Relevant Person’s past and present will and preferences in relation to the application being made.

.....

J) To your knowledge, does the Relevant Person have any beliefs or values which should be taken into consideration?

Yes

No

If yes, please give details: ...

Personal Welfare Decisions

It is only necessary to complete this section of the form where your application includes an application for a declaration that the Relevant Person lacks capacity to make one or more than one decision relating to their personal welfare.

K) Please identify any particular needs the Relevant Person may have in relation to the making of decisions about their personal welfare:

Examples include:

- Accommodation, including whether or not the Relevant Person should live in a designated centre (i.e. a residential institution for persons with dependencies or disabilities or a nursing home)
- Participation in employment, education or training
- Decisions on any social services provided or to be provided to the Relevant Person
- Healthcare
- Participation in social activities
- Participation in healthcare / social care research
- Other matters relating to the Relevant Person’s well-being

.....

You should exhibit copies of all relevant correspondence and documents which may be relevant to the needs identified. Those copies shall be incorporated in a single exhibit, indexed and numbered sequentially in chronological order.

Property and Affairs Decisions

It is only necessary to complete this section of the form where your application includes an application for a declaration that the Relevant Person lacks capacity to make one or more than one decision relating to their property and affairs.

If the application is being made in relation to a particular property or transaction only, and not to the Relevant Person’s property and affairs generally, it is only necessary to provide details of the property to which the application relates or of the matters to which the transaction relates.

L) Please identify any particular needs the Relevant Person may have in relation to the making of decisions about the following:

The custody, control and management of some or all of the Relevant Person's property or property rights. Please give details:

The sale, exchange, mortgaging, charging, gift or other disposition of the Relevant Person's property (example: whether you believe it might become necessary to sell the Relevant Person's home or other assets to meet the cost of accommodation or care) Please give details:

The acquisition of property by the Relevant Person, or on his or her behalf. Please give details:

The carrying on, on behalf of the Relevant Person, of any profession, trade or business which may lawfully be carried on by a person other than the Relevant Person (example: the management of any business which the Relevant Person owns or operates which he or she might not in future be able to undertake). Please give details:

The making of a decision which will have the effect of dissolving a partnership in which the Relevant Person is a partner. Please give details:

The carrying out of any contract entered into by the Relevant Person. Please give details:

The discharge of the Relevant Person's debts, tax and duty liabilities and obligations or other obligations. Please give details:

The execution or exercise of any of the powers or discretions vested in the Relevant Person as a tenant for life. Please give details:

Providing, to the extent that the Relevant Person might have been expected to do so, for the needs of a decision-making assistant, a co-decision-maker, an attorney, a designated healthcare representative or a decision-making representative for the Relevant Person or of other persons. Please give details:

The conduct of proceedings before any court or tribunal, whether in the name of the Relevant Person or on his or her behalf. Please give details:

Making an application for housing, social welfare or other benefits or otherwise protecting or advancing the interests of the Relevant Person in relation to those matters. Please give details:

M) Please provide a summary, so far as you know, of the nature and approximate value of the Relevant Person's assets:

Description of asset:	Estimated value (€):
.....	
.....	
Total Estimated value (€)

Are any of these assets subject to a mortgage, charge or third party rights?

|| Yes

No

If yes, please give details:

N) Please provide a summary, so far as you know, of the nature and approximate value of the Relevant Person’s liabilities:

Description of liability: Estimated value (€):

.....

.....

Total Estimated value (€)

O) Please provide a summary, so far as you know, of the nature and approximate amount of the Relevant Person’s monthly income (indicating the source where known to you):

Description of income: Estimated value (€):

.....

.....

Total Estimated value (€)

P) Please provide a summary, so far as you know, of the nature and approximate amount of the Relevant Person’s monthly spending:

Description of expense: Estimated cost (€):

.....

.....

Total Estimated cost(€)

Q) Please provide a summary of the Relevant Person’s dependants (people they look after financially):

Number of dependants under 18 years of age (if any):

Other dependants (give details):

Possible Co Decision-Maker

R) Possible Co-Decision Maker:

If the Court declares that the Relevant Person lacks capacity, unless the assistance of a suitable person as a co-decision-maker (CDM) is made available to him or her, to make one or more than one decision specified in the Court’s declaration relating to his or her personal welfare or property and affairs, or both, do you know of a suitable person who would be willing to act as a co-decision-maker for the Relevant Person?

Yes

No

If you answered yes to the above, complete below:

Name(s) of suitable person(s):

Address(es) of suitable person(s):

Relationship(s) to the Relevant Person:

If any person proposed to act as a CDM has confirmed his or her consent to act as such, a copy of the consent must be exhibited to the grounding affidavit.

Please give reasons why that person would be suitable as a Co-Decision Maker:

Possible Decision-Making Representative

S) Possible Decision-Making Representative

If the Court declares that the Relevant Person lacks capacity, even if the assistance of a suitable person as a co-decision-maker (CDM) is made available to him or her, to make one or more than one decision specified in the Court's declaration relating to his or her personal welfare or property and affairs, or both, do you know of a suitable person who would be willing to act as a decision making representative (DMR) for the Relevant Person?

Yes

No

If you answered yes to the above, complete below:

Name(s) of suitable person(s):

Address(es) of suitable person(s):

Email of suitable person(s):

Phone Number of suitable person(s):

Relationship(s) to the Relevant Person:

If any person proposed to act as a DMR has confirmed his or her consent to act as such, a copy of the consent must be exhibited to the grounding affidavit.

When considering the suitability of a person to be a decision-making representative for a relevant person, the court shall have regard to the following:

- The known will and preferences of the relevant person
- The desirability of preserving existing relationships within the family of the Relevant Person
- The relationship (if any) between the relevant person and the proposed representative
- The compatibility of the proposed representative and the relevant person
- Whether the proposed representative will be able to perform the functions to be vested in him or her
- Any conflict of interest

Where the court appoints a decision-making representative to make decisions on the relevant person's property and affairs, it shall have regard to the following

- The size, nature and complexity of the relevant person's financial affairs
- Any professional expertise, qualification or experience required to manage the relevant person's financial affairs
- The capability of the proposed representative to manage the relevant person's property and affairs
- The financial expertise and support available to the proposed representative

Please give reasons why that person would be suitable as a decision-making representative:

Declaration sought of lawfulness of proposed intervention

T) Complete this section of the form if you have included in your application that:

You are asking for declaration as to the lawfulness of an intervention proposed to be made in respect of the Relevant Person, under section 37(3) of the Act.

For the purposes of an application under section 37(3) of the Act, an 'intervention' means an action taken under the Assisted Decision-Making Capacity Act 2015 by:

- A decision-making assistant, co-decision-maker, decision-making representative, attorney or designated healthcare representative
- The Director of the Decision Support Service
- A special visitor or general visitor
- A healthcare professional
- Court Friend
- A person found suitable by the Court to assist the Relevant Person

Does the applicant wish the Court to make a declaration as to the lawfulness of any intervention proposed in relation to the Relevant Person, and if so, provide details of the proposed intervention

U) Additional information for your application:

Please provide any additional information not already provided above, to which you believe the Court should have regard in considering your application

V) Signatures:

Signature of applicant(s)/Solicitor for applicant(s):

Date:

Solicitor Details (if applicable)

Name and Address of Solicitor:

Email:

Phone Number:

The statement of particulars must be verified by an affidavit (Form 55I). When served on the relevant person, a form of reply (Form 55C) should also be served.

Form 55C

An Chúirt Chuarda
The Circuit Court

Reply to Capacity Application

Part 5 of the Assisted Decision-Making (Capacity) Act 2015, as amended

Complete this form if you wish to respond to a Capacity application

Record Number: ...

Circuit ...

County

Application details:

Name of Relevant Person: ...

Name of applicant(s): ...

Hearing date: ...

Your response as the Relevant Person:

How would you like to respond to the application? (Please select one):

I do not object to the application

I do not agree with the application

If you **do not agree** with the application, please give your reasons

Please set out any further information which you think should be brought to the Court's attention:

Court hearing:

If you are attending the hearing and require special assistance or facilities, please list them below:

.....

Signatures:

Signature of relevant person/Solicitor for relevant persons: ...

Date: ...

Solicitor Details (if applicable)

Name and Address of Solicitor: ...

Email: ...

Phone Number: ...

To:

Name and Address of Court office: ...

Name and address of Applicant: ...

Form 55D

An Chúirt Chuarda
The Circuit Court

CIRCUIT

COUNTY OF

Record number:

In the matter of the Assisted Decision-Making (Capacity) Act 2015 and in the matter ofof, *(relevant person)*(ward)

*CAPACITY APPLICATION

PART 5 OF THE ASSISTED DECISION-MAKING (CAPACITY) ACT 2015

*DISCHARGE APPLICATION

PART 6 OF THE ASSISTED DECISION-MAKING (CAPACITY) ACT 2015

Application of.....of, Applicant(s)

AFFIDAVIT OF SERVICE ON A RELEVANT PERSON OR A WARD

I, [name] of [address] aged 18 years and upwards, make oath and say as follows:—

1. On theday of20...., between the hours of and I personally served the *(Relevant Person) *(Ward) with notice of the application herein.

2. I effected such service at [*set out the address at which service was effected*] by showing him/her personally copies of the

*(Capacity Application) *(Discharge Application), Statement of Particulars and grounding affidavit(s) (and any exhibits), and form for reply,

*(Originating) notice of motion, and grounding affidavit(s) (and any exhibits), and form for reply,

and at the same time delivering to him/her in person and leaving with him/her true copies of the same.

3. I explained the nature and implications of the application to the *(Relevant Person) *(Ward).

[*or explain what action was taken in this regard*]

4. The response of the *(Relevant Person) *(Ward) was [or state that the respondent made no response].

5. At the time of such service I was acquainted with the appearance of the *(Relevant Person) *(Ward) or the *(Relevant Person) *(Ward) was identified to me by

Sworn etc.

Form 55E

An Chuirt Chuarda
The Circuit Court

Notice of Motion

Record Number: ...

Circuit ...

County ...

**In the Matter of the Assisted Decision-Making (Capacity) Act 2015,
as amended**

Part: ...

Section: ...

Is this an Originating Notice of Motion?

Yes

No

And In the Matter of

Relevant Person

Name: ...

Address: ...

Application of

Applicant(s)

Name: ...

Address: ...

And

Respondent(s) (if applicable)

Name: ...

Address: ...

TAKE NOTICE that on

Date of Hearing: ...

at Time: ...

Court Venue: ...

the Applicant will apply for orders as set out in this document, and for such further or other orders as the Court is empowered to make under said Act.

Affidavit Details:

WHICH application will be grounded upon the following affidavit(s) and the nature of the case and the reasons to be offered:

Affidavit of:

Sworn on (date)

.....

Details of Order(s) requested:

.....

Signatures:

Signature of applicant(s)/Solicitor for applicant(s): ...

Date: ...

Solicitor Details (if applicable)

Name and Address of Solicitor: ...

Email: ...

Phone Number: ...

To:

Name and Address of Court office: ...

Name and address of Notice Party(s) (if applicable): ...

You should consider taking legal advice on this document.

If you are the Relevant Person to whom this application relates, you may reply to the application by completing Form 55F (or if you have a solicitor, your solicitor may do so).

The completed form should be sent to the applicant or applicant's solicitor at the address given above and to the Court Office at the address above at least seven days before the hearing date.

You may also deliver evidence by affidavit or, if the Court permits, in another manner. You may attend the hearing in person and/or your solicitor can attend on your behalf.

Form 55F

An Chúirt Chuarda
The Circuit Court

Reply to Notice of Motion

Record Number: ...

Circuit ...

County ...

In the Matter of the Assisted Decision-Making (Capacity) Act 2015, as amended

Part: ...

Section: ...

And In the Matter of

Relevant Person:

Name: ...

Address: ...

Name of Applicant: ...

Your response:

How would you like to respond to the application/appeal? (Please select one):

I do not object to the application/appeal

I do not agree with the application/appeal

If you **do not** agree with the application/appeal, please give your reasons:

Please set out any further information which you think should be brought to the Court's attention:

Court hearing:

If you are attending the hearing and require special assistance or facilities, please list them below:

....

Signatures:

Signature of Relevant Person/Solicitor for Relevant Person: ...

Date:

Solicitor Details (if applicable)

Name and Address of Solicitor: ...

Email: ...

Phone Number: ...

To:

Name and Address of Court office: ...

Name and address of Applicant/Appellant: ...

Form 55G

An Chúirt Chuarda
The Circuit Court

Ex-Parte Consent Application

Notice of Motion

Record Number: ...

Circuit ...

County ...

In the Matter of the Assisted Decision-Making (Capacity) Act 2015, as amended

Part: ...

Section: ...

And In the Matter of

Relevant Person

Name: ...

Address: ...

Application of

Applicant(s)

Name: ...

Address: ...

TAKE NOTICE that on

Date of Hearing: ...

at Time: ...

Court Venue: ...

the applicant will apply for orders as set out in this document, and for such further or other orders as the Court is empowered to make under said Act.

Affidavit Details:

WHICH application will be grounded upon the following affidavit(s) and the nature of the case and the reasons to be offered:

Affidavit of:

Sworn on (date)

.....
.....

Details of Order(s) requested:

.....

Signatures:

Signature of applicant(s)/Solicitor for applicant(s): ...

Date:

Solicitor Details (if applicable)

Name and Address of Solicitor:

Email:

Phone Number:

To:

Name and Address of Court office:

Form 55H

An Chúirt Chuarda
The Circuit Court

Notice of Appeal

Record Number: ...

Circuit ...

County ...

In the Matter of the Assisted Decision-Making (Capacity) Act 2015, as amended

Part: ...

Section: ...

And In the Matter of

Relevant Person

Name: ...

Address: ...

Appeal of

Appellant(s)

Name: ...

Address: ...

And

Respondent(s) (if applicable)

Name: ...

Address: ...

TAKE NOTICE that on

Date of Hearing: ...

at Time: ...

Court Venue: ...

the Appellant will apply for orders as set out in this document, and for such further or other orders as the Court is empowered to make under said Act.

Affidavit Details:

WHICH application will be grounded upon the following affidavit(s) and the nature of the case and the reasons to be offered:

Affidavit of:

Sworn on (date)

.....

Details of Order(s) requested:

.....

Signatures:

Signature of appellant(s)/Solicitor for appellant(s): ...

Date: ...

Solicitor Details (if applicable)

Name and Address of Solicitor: ...

Email: ...

Phone Number: ...

To:

Name and Address of Court office: ...

Name and address of Notice Party(s)(if applicable): ...

An Chúirt Chuarda
The Circuit Court

CIRCUIT

COUNTY OF

Record number:

In the matter of the Assisted Decision-Making (Capacity) Act 2015 and in the matter ofof, *(relevant person)*(ward)

***CAPACITY APPLICATION**

PART 5 OF THE ASSISTED DECISION-MAKING (CAPACITY) ACT 2015

***DISCHARGE APPLICATION**

PART 6 OF THE ASSISTED DECISION-MAKING (CAPACITY) ACT 2015

Application of.....of, Applicant(s)

AFFIDAVIT IN SUPPORT OF APPLICATION

I, [Insert name of Deponent], [Insert occupation of Deponent], of [Insert address of Deponent] being aged 18 years and upwards MAKE OATH and say as follows:

1.I am the applicant in the above-entitled proceedings. I make this Affidavit from facts within my own knowledge save where otherwise appears and where so appearing I believe the same to be true.

A – Verification of Application

2.I beg to refer to the *Capacity Application *Discharge Application herein. I also beg to refer to the above Statement of Particulars of the *[Relevant Person] *[Ward] I say that such of the statements therein as relate to my particulars are true and correct and such of the statements therein as relate to the particulars of the Relevant Person to whom this application relates or to any other matter I believe to be true.

3.I beg to refer to true copies of the following documents referred to or relied upon in the Statement of Particulars herein, upon each of which I have signed my name prior to the swearing hereof, namely:

..... marked “B”;

..... marked “C”;

..... marked “D”, etc.

B – Basis of jurisdiction

4. I say that the Court has jurisdiction because —

*the said, the *[Relevant Person] *[Ward] the subject of this application is *residing *carrying on business atin the above-mentioned Circuit of this Honourable Court

*the said, the [Relevant Person] *[Ward] the subject of this application has resided atin the above-mentioned Circuit of this Honourable Court between20... and20..., being a time during the period of three years immediately prior to the making of this application.

C – Other relevant correspondence and documents

5. I beg to refer to a set pinned together, indexed and numbered sequentially in chronological order and marked “E”, and upon which I have signed my name prior to the swearing hereof, of true copies of what I believe are all of the other relevant correspondence and documents so far as affects the Relevant Person, relevant to the matter or matters in respect of which relief is sought in this application.

***D – Proposals for the further conduct of the proceedings**

[6. Where the applicant wishes to make proposals for the directions which may be made for the further conduct of the proceedings, set out the facts or circumstances which it is alleged justify the giving of any particular directions sought, and set out the basis of the deponent’s belief as to the existence of those facts or circumstances.]

E – Other relevant information

[7. Set out all other evidence on which the applicant relies in support of the application for relief and all other information relevant to the application and where same is contained in any report or other document, exhibit such document.]

[insert appropriate paragraph number] I accordingly pray for the relief set out in the Capacity Application herein.

SWORN etc.

*delete where inapplicable

Form 55J

An Chúirt Chuarda
The Circuit Court

CIRCUIT

COUNTY OF

Record number:

In the matter of the Assisted Decision-Making (Capacity) Act 2015 and in the matter ofof

STATEMENT OF DECISION MAKING REPRESENTATIVE

I, _____, the / a

Decision Making Representative for the above Relevant Person confirm that I,

- (a) understand and undertake to act in accordance with the powers conferred and the duties imposed on me by the Court, and
- (b) understand and undertake to act in accordance with the guiding principles set out in section 8 of the Assisted Decision Making (Capacity) Act 2015.

Signed:

Dated: _____

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These rules amend the Circuit Court Rules, by the insertion of a new Order 47B and the addition of Forms 55A to 55J to the Schedule of Forms annexed to those rules to facilitate applications to the Circuit Court for orders under the Assisted Decision-Making (Capacity) Act 2015 as amended and by the substitution of Order 2 paragraph (d), Order 6 rule 8, order 11 rule 15, Order 13 rule 1(j), Order 15 rule 3 and Order 19 rule1 of those Circuit Court Rules.

In particular these rules provide for the following -

- applications under Part 5 of the Act for declarations as to capacity and Decision-Making Orders;
- discharge applications and hearings under Part 6 of the Act;
- review of declarations of capacity made under Part 5 or Part 6 of the Act;
- applications and appeals other than under Part 5 or Part 6 of the Act.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
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Tel: 046 942 3100
r-phost: publications@opw.ie

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