



STATUTORY INSTRUMENTS.

S.I. No. 326 of 2024



DISTRICT COURT (ASSISTED DECISION-MAKING (CAPACITY) ACT
2015) RULES 2024

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The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, and section 24 of the Interpretation Act 2005, and of all other powers enabling them in this behalf, do hereby, with the concurrence of the Minister for Justice, make the following rules of court.

Dated this 16th day of April 2024.

Paul Kelly Chairperson

Marie Quirke

Sandra Murphy

Shane McCarthy

Ann McGarry

Eoin Martin

Ciara McMahan

James Finn

Eoin Manning

I concur in the making of the following rules of court.

Dated this 23rd day of June 2024.

HELEN MCENTEE

Minister for Justice

S.I. No. 326 of 2024

DISTRICT COURT (ASSISTED DECISION-MAKING (CAPACITY) ACT
2015) RULES 2024

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961, and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice, make the following rules of court:-

1. (1) These Rules, which shall come into operation on the 8th day of July 2024, may be cited as the District Court (Assisted Decision-Making (Capacity) Act 2015) Rules 2024.

(2) These Rules shall be construed together with the District Court Rules 1997 (S.I. No. 93 of 1997) and all other District Court Rules.

(3) The District Court Rules as amended by these Rules may be cited as the District Court Rules 1997 to 2024.

2. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended:

(i) by the substitution for sub-rule (4) of rule 6A of Order 7 of the following sub-rule:

“(4) Where the Court approves an assessment in accordance with this rule it may give directions as to how the amount recoverable by the minor, ward or relevant person within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015 is to be dealt with, including a direction for lodgement in Court and investment of the amount concerned.”;

(ii) by the substitution for rules 8 and 9 of Order 7 of the following rules respectively:

“[Relevant person to whom the Assisted Decision-Making (Capacity) Act 2015 applies]

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 a decision-making representation order in respect of a relevant person authorises a decision-making representative to institute, prosecute or defend proceedings, the decision-making representative may institute, prosecute or defend such proceedings, and service of such proceedings on the

decision-making representative shall be good and sufficient service.

- (3) Where notification of lack of capacity has been accepted in respect of a registered enduring power of attorney made by a relevant person as the donor, which power includes authority to act on the donor's behalf in relation to the institution, prosecution or defence of proceedings, the attorney may institute, prosecute or defend such proceedings, and service of such proceedings on the attorney shall be good and sufficient service.
- (4) Where a registered enduring power under the Act of 1996, made by a relevant person as the donor, includes authority to act on the donor's behalf in relation to the institution, prosecution or defence of proceedings, the attorney under the Act of 1996 may institute, prosecute or defend such proceedings, and service of such proceedings on the attorney under the Act of 1996 shall be good and sufficient service.
- (5) Where a registered co-decision-making agreement in force in respect of an intending party or party to proceedings as the appointer 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 on behalf of that party in such proceedings shall state 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.

[Service of documents]

9. Save where the Court otherwise orders, service of documents upon a minor shall be effected in accordance with the provisions (including rule 8) of Order 41 of these Rules, and upon a relevant person to whom rule 8 applies in accordance with the provisions (including rule 9) of that Order.”;

- (iii) by the substitution for paragraph (g) of rule 2 of Order 11 of the following paragraph:

“(g) in proceedings relating to a minor or a relevant person within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015 who is domiciled in or a citizen of Ireland;”

- (iv) by the substitution for rule 9 of Order 41 of the following rule:

“9 *Service on a relevant person*

9. (1) Service on a relevant person (within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015) must be in accordance with Order 7, rule 8.

(2) Where the person to be served is a ward of court, a document is effectively served if served:

(a) on the person’s solicitor; or

(b) on the committee of the ward of court,

unless the Court otherwise decides.”;

- (v) by the substitution for paragraph (g) of rule 2 of Order 41A of the following paragraph:

“(g) in proceedings relating to a child or a relevant person within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015 who is “domiciled in or a citizen of the State;”;

- (vi) by the substitution in rule 1 of Order 43 for the definition of “person under a disability” of the following definition:

““vulnerable person” includes a child, a ward of court, and a relevant person within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015.”;

- (vii) by the substitution for sub-rule (4) of rule 6 of Order 43 of the following sub-rule:

“(4) A person may only be added as a claimant:

(a) with his or her consent in writing, if he or she is not a vulnerable person, or

(b) if the person is a child, following the appointment of a guardian ad litem or next friend, who must give his or her consent in writing to act in that capacity, or

(c) if the person is a relevant person within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015, in accordance with Order 7, rule 8, or

- (d) if the person is a ward of court, by his or her committee.”;
- (viii) by the substitution for sub-rule (1) of rule 7 of Order 43 of the following sub-rule:
 - “7. (1) When civil proceedings have been brought on behalf of or against a child, the Court may appoint a next friend or guardian ad litem to act for or on behalf of the child.”;
- (ix) by the substitution for rules 10 and 11 of Order 43 of the following rules respectively:
 - “10 *Relevant person*
 - 10. A relevant person within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015 may sue or defend in accordance with Order 7, rule 8.
 - 11 *Compromise of claim by a vulnerable person*
 - 11. (1) If in a civil proceeding a claim is made by or on behalf of or against a child or a person in respect of whom a decision-making representation order has been made under section 38(2)(b) of the Assisted Decision-Making (Capacity) Act 2015 and is in force, no compromise, payment of money or acceptance of an offer, whenever entered into or made, so far as it relates to that claim, is valid without the approval of the Court.
 - (2) Application for approval must be by notice of motion (which may be in the Form 43.02, Schedule C, with the necessary modifications) filed not later than 28 days after the compromise, payment or acceptance.
 - (3) No affidavit is required in support of the notice of motion.
 - (4) The Court may dispense with the requirement of a notice of motion if the application for approval is made at the hearing of the civil proceeding.
 - (5) On the application, evidence must be given of the date of the compromise, payment or acceptance and the date of birth of the child or person, and the dates must be stated in any order approving the compromise, payment or acceptance.
 - (6) If the acceptance of an offer of compromise is approved, the child or person must be taken to have made or accepted the offer at the time of approval.”;
- (x) by the substitution for rule 16 of Order 43 of the following rule:

“16. Save where the Court otherwise orders, service of documents on a vulnerable person must be in accordance with the provisions of Order 41.”

EXPLANATORY NOTE

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

These rules make consequential/ancillary amendments to the District Court Rules to update provisions in a number of rules to take account of the provisions of the ADMC Act, including rules governing the issuing of proceedings and service matters where the capacity of one of the parties is or may be in question.

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