



STATUTORY INSTRUMENTS.

S.I. No. 14 of 2025



**RULES OF THE SUPERIOR COURTS (GUARDIAN AD LITEM AND
NEXT FRIEND) 2025**

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RULES OF THE SUPERIOR COURTS (GUARDIAN AD LITEM AND
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We, the Superior Courts Rules Committee, constituted pursuant to the provisions of section 67 of the Courts of Justice Act 1936, and reconstituted pursuant to the provisions of section 15 of the Courts of Justice Act 1953, by virtue of the powers conferred upon us by section 36 of the Courts of Justice Act 1924, section 68 of the Courts of Justice Act 1936 (as applied by section 48 of the Courts (Supplemental Provisions) Act 1961) and section 14 of the Courts (Supplemental Provisions) Act 1961, do hereby make the following Rules of Court.

Dated this 17th day of October, 2024.

Caroline Costello

David Barniville

Elizabeth Dunne

Máire Whelan

Nuala Butler

Richard Humphreys

Siobhán Phelan

Yvonne McNamara

Gráinne Larkin

Michele O'Boyle

Áine Hynes

James Finn

Mary Cummins

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

Dated this 21st day of January 2025.

Helen McEntee

Minister for Justice

S.I. No. 14 of 2025

RULES OF THE SUPERIOR COURTS (GUARDIAN AD LITEM AND
NEXT FRIEND) 2025

1. (1) These Rules, which may be cited as the Rules of the Superior Courts (Guardian ad litem and next friend) 2025, shall come into operation on the 31st day of January 2025.

(2) These Rules shall be construed together with the Rules of the Superior Courts.

(3) The Rules of the Superior Courts as amended by these Rules may be cited as the Rules of the Superior Courts 1986 to 2025.

2. These Rules shall apply in proceedings commenced both before and from the date on which these Rules come into operation.

3. The Rules of the Superior Courts are amended:

(i) by the substitution for rules 16 to 21 inclusive of Order 15 of the following rules:

“II. Person under disability

16. (1) A child may sue as plaintiff by his or her next friend in accordance with this rule, and may defend by his or her guardian ad litem in accordance with this rule.

(2) Where a child sues by a next friend, any solicitor applying to issue the summons or other originating document shall make an affidavit in the Form No 4 in Appendix A, Part II, which shall be filed together with the consent of the person proposed to act as next friend in the Form No 4A in Appendix A, provided that in any case in which a statutory declaration of the solicitor under section 14(2) of the Mediation Act 2017 is required, this requirement may be satisfied by a single statutory declaration for the purposes of the Mediation Act 2017 and this rule.

(3) A child may not enter an appearance except by his or her guardian ad litem, and every child served with an originating document or notice of motion in a matter shall appear on the hearing thereof by a guardian ad litem, in all cases in which the appointment of a special guardian is not provided for.

(4) No order for the appointment of a guardian ad litem shall be necessary, but a solicitor applying to enter an appearance on behalf of a child, or appearing on behalf of a child on the hearing of an originating document or motion

shall, before doing so, make an affidavit in the Form No 4B in Appendix A, Part II, which shall be filed together with the consent of the person proposed to act as guardian ad litem in the Form No 4C in Appendix A.

(5) In all causes or matters to which a child is a party, any consent as to the mode of taking evidence or as to any other procedure shall, if given with the consent of the Court by the next friend, guardian or guardian ad litem of the child, be of full force and effect.

(6) On the child's attaining majority, the child, or the next friend or guardian may apply to the proper officer in the Central Office, by production of the child's birth certificate or such other evidence as the proper officer may require, for an amendment of the title to the proceedings to describe the party lately a child as proceeding or defending in his or her own name. The said officer shall on such application cause the title to the proceedings in the cause book to be amended accordingly.

17. (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 Powers of Attorney 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.

18. In all causes or matters to which a party is a relevant person (within the meaning of section 2(1) of the Assisted Decision-Making (Capacity) Act 2015), any consent as to the mode of taking evidence or as to any other procedure shall, if given with the consent of the Court by the person entitled to conduct or defend the proceedings in accordance with Order 15, rule 17, be of full force and effect.

19. The name of any person shall not be used in any cause or matter as relator, unless such person has signed a written authority to the solicitor for that purpose, and the authority has been filed in the proper office.”

4. The forms numbered 4, 4A, 4B and 4C in the Schedule shall be substituted for Form No. 4 in Part II of Appendix A to the Rules of the Superior Courts.

Schedule

No. 4

O. 15, r. 16

AFFIDAVIT OF SUITABILITY OF NEXT FRIEND.
(Title as in Summons or other originating document).

I, of [place of abode or business], solicitor, make oath and say as follows:—

To the best of my knowledge, information and belief, E.F., of, the person proposed as next friend of the above-named child plaintiff, is a fit and proper person to act as next friend, being capable of fairly and competently conducting proceedings on behalf of the said child, and has no interest in the matters in question in this action adverse to that of the said child. The written consent of the said E.F. to act as such next friend is hereto annexed.

Sworn, &c.

This affidavit is filed on behalf of, &c.

[To this affidavit shall be annexed the written consent signed by the next friend in Form 4A.]

No. 4A

O. 15, r. 16

CONSENT TO ACT AS NEXT FRIEND.
(Title as in Summons or other originating document).

I, of [address], consent to act as next friend of the above-named child plaintiff. My relationship to the child is [state relationship]. I have been advised by my solicitor on the nature of the duties of a next friend, and am capable of fairly and competently conducting proceedings on behalf of the said child. I have no interest in the matters in question in this action adverse to that of the said child.

Signed:

Date:

No. 4B

O. 15, r. 16

AFFIDAVIT OF SUITABILITY OF GUARDIAN AD LITEM.

(Title as in Summons or other originating document).

I, of [place of abode or business], solicitor, make oath and say as follows:—

To the best of my knowledge, information and belief, G.H., of, the person proposed as guardian ad litem of the above-named child defendant, is a fit and proper person to act as guardian ad litem, being capable of fairly and competently conducting proceedings on behalf of the said child, and has no interest in the matters in question in this action adverse to that of the said child. The written consent of the said G.H. to act as such guardian is hereto annexed.

Sworn, &c.

This affidavit is filed on behalf of, &c.

[To this affidavit shall be annexed the written consent signed by such guardian in Form 4C.]

No. 4C

O. 15, r. 16

CONSENT TO ACT AS GUARDIAN AD LITEM.

(Title as in Summons or other originating document).

I, of [address], consent to act as guardian ad litem of the above-named child plaintiff. My relationship to the child is [state relationship]. I have been advised by my solicitor on the nature of the duties of a guardian ad litem, and am capable of fairly and competently conducting proceedings on behalf of the said child. I have no interest in the matters in question in this action adverse to that of the said child.

Signed:

Date:

EXPLANATORY NOTE

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

These rules provide the procedure for appointment of a next friend for a child plaintiff and of a guardian ad litem for a child defendant.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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