

PART 6

WARDS

Definitions — Part 6**53.** In this Part—

“ward” means a relevant person in the wardship of a wardship court;

“wardship court” means the High Court or Circuit Court exercising its jurisdiction under this Part and, in relation to a ward, means that court which made the order by virtue of which the ward is a ward.

Review of capacity of wards who are adults

- 54.** (1) An application for a declaration under *section 55(1)* in respect of a ward who has attained the age of 18 years by the date of commencement of this Part may, with the consent of the wardship court, be made to the wardship court at any time by—
- (a) the ward,
 - (b) a relative or friend of the ward who has had such personal contact with the ward over such period of time that a relationship of trust exists between them, or
 - (c) such other person as appears to the wardship court to have a sufficient interest or expertise in the welfare of the ward.
- (2) Notwithstanding *subsection (1)*, the wardship court shall, within 3 years from the date of commencement of this Part, make a declaration under *section 55(1)* in respect of a ward who—
- (a) reaches the age of 18 years by that date, or
 - (b) reaches the age of 18 years within 2 years and 6 months from that date.
- (3) Where a ward reaches the age of 18 years after the period specified in *subsection (2)(b)*, the wardship court shall, within 6 months of the ward reaching that age, make a declaration under *section 55(1)* in respect of the ward.

Declarations following review and discharge from wardship

- 55.** (1) The wardship court, on an application being made to it under *section 54(1)*, or pursuant to *section 54(2)* or *(3)*, shall—
- (a) declare that the ward does not lack capacity, or
 - (b) make one or more than one of the following declarations:
 - (i) that the ward 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 than one decision;
 - (ii) 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.

- (2) Where the wardship court makes a declaration pursuant to *subsection (1)(a)*, it shall immediately discharge the ward from wardship and shall order that the property of the former ward be returned to him or her and give such directions as it thinks appropriate having regard both to the discharge and the circumstances of the former ward.
- (3) Where the wardship court makes a declaration pursuant to *subsection (1)(b)(i)*, it shall, on registration of a co-decision-making agreement, discharge the ward from wardship and shall order that the property of the former ward be returned to him or her and give such directions as it thinks appropriate having regard both to the discharge and the circumstances of the former ward.
- (4) Where the court makes a declaration pursuant to *subsection (1)(b)(i)* but—
 - (a) there is no suitable person to act as co-decision-maker for the former ward, or
 - (b) a co-decision-making agreement in respect of the former ward is not registered in accordance with *Part 4* within a period set down by the wardship court,the wardship court shall (subject to it allowing for any extension of the period set down by it)—
 - (i) as if it had made a declaration under *subsection (1)(b)(ii)*, make such orders under *Part 5* as it considers appropriate as if the wardship court were the court under *Part 5*, and
 - (ii) order that the property of the former ward be returned to him or her upon the appointment of a decision-making representative in respect of the former ward.
- (5) Where the wardship court makes a declaration pursuant to *subsection (1)(b)(ii)*, it shall—
 - (a) make such orders as it considers appropriate under *Part 5* as if the wardship court were the court under *Part 5*, and
 - (b) order that the property of the former ward be returned to him or her upon the appointment of a decision-making representative in respect of the former ward.

Saver

- 56.** (1) The repeal of the Lunacy Regulation (Ireland) Act 1871 by *section 7* shall not affect the validity of any order—
- (a) made by the wardship court within its jurisdiction, and
 - (b) which was in force immediately before the commencement of this Part.
- (2) Pending a declaration under *section 55(1)*, the jurisdiction of the wardship court as set out in sections 9 and 22(2) of the Courts (Supplemental Provisions) Act 1961 shall continue to apply.

Director and wards who are adults

57. The wardship court may, after consultation with the Director, in respect of—

(a) a ward—

(i) who was a ward immediately before the commencement of this section, and

(ii) who has attained the age of 18 years,

or

(b) a class of wards—

(i) who were wards immediately before the commencement of this section, and

(ii) each member of which has attained the age of 18 years,

direct the Director to exercise his or her functions in relation to that ward, or that class of wards, as the case may be, as if the ward or class of wards were the subject of a declaration under *section 37(1)(b)* that the ward, or the wards who fall within that class, lacked capacity, and the wardship court may, in order to give effect to its direction, give such other directions as it thinks appropriate having regard to the circumstances of the ward or the members of that class of wards, as the case may be.