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STATUTORY INSTRUMENTS

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**1995 No. 755**

**The Children (Northern Ireland) Order 1995**

**PART V**

**CARE AND SUPERVISION**

*Guardians ad litem*

**Representation of child and of his interests in certain proceedings**

**60.**—(1) For the purpose of any specified proceedings, the court shall appoint a guardian ad litem for the child concerned unless satisfied that it is not necessary to do so in order to safeguard his interests.

(2) The guardian ad litem shall—

- (a) be appointed in accordance with rules of court; and
- (b) be under a duty to safeguard the interests of the child in the manner prescribed by such rules.

(3) Where—

- (a) the child concerned is not represented by a solicitor; and
- (b) any of the conditions mentioned in paragraph (4) is satisfied,

the court may appoint a solicitor to represent him.

(4) The conditions are that—

- (a) no guardian ad litem has been appointed for the child;
- (b) the child has sufficient understanding to instruct a solicitor and wishes to do so;
- (c) it appears to the court that it would be in the child's best interests for him to be represented by a solicitor.

(5) Any solicitor appointed under this Article shall be appointed, and shall represent the child, in accordance with rules of court.

(6) In this Article "specified proceedings" means any proceedings—

- (a) on an application for a care or a supervision order;
- (b) in which the court has given a direction under Article 56(1) and has made, or is considering whether to make, an interim care order;
- (c) on an application for the discharge of a care order or the variation or discharge of a supervision order;
- (d) on an application under Article 58(4);
- (e) in which the court is considering whether to make a residence order with respect to a child who is the subject of a care order;

- (f) with respect to contact between a child who is the subject of a care order and any other person;
  - (g) under Part VI;
  - (h) on an appeal against—
    - (i) the making of, or refusal to make, a care order, supervision order or any order under Article 53;
    - (ii) the making of, or refusal to make, a residence order with respect to a child who is the subject of a care order; or
    - (iii) the variation or discharge, or refusal of an application to vary or discharge, an order of a kind mentioned in head (i) or (ii);
    - (iv) the refusal of an application under Article 58(4); or
    - (v) the making of, or refusal to make, an order under Part VI; or
  - (i) which are specified, for the purposes of this Article, by rules of court.
- (7) The Department may by regulations provide for the establishment of panels of persons from whom guardians ad litem appointed under this Article must be selected.
- (8) Paragraph (7) shall not be taken to prejudice the power of the Lord Chancellor to confer or impose duties on the Official Solicitor under section 75(2) of the Judicature (Northern Ireland) Act 1978(1).
- (9) The regulations may, in particular, make provision—
- (a) for the constitution, administration and procedures of panels and for the appointment of panel managers;
  - (b) for the defrayment of expenses and for the payment of fees and allowances;
  - (c) as to the qualifications for appointment as a guardian ad litem;
  - (d) as to the training to be given to guardians ad litem or to persons with a view to their appointment as guardians ad litem; and
  - (e) for monitoring the work of guardians ad litem.
- (10) Rules of court may make provision as to—
- (a) the assistance which any guardian ad litem may be required by the court to give to it;
  - (b) the consideration to be given by any guardian ad litem, where an order of a specified kind has been made in the proceedings in question, as to whether to apply for the variation or discharge of the order;
  - (c) the participation of guardians ad litem in reviews, of a kind specified in the rules, which are conducted by the court.
- (11) Regardless of any statutory provision or rule of law which would otherwise prevent it from doing so, the court may take account of—
- (a) any statement contained in a report made by a guardian ad litem who is appointed under this Article for the purpose of the proceedings in question; and
  - (b) any evidence given in respect of the matters referred to in the report,
- in so far as the statement or evidence is, in the opinion of the court, relevant to the question which the court is considering.
- (12) The Department may, with the approval of the Department of Finance and Personnel, make such grants as the Department considers appropriate with respect to expenditure incurred under regulations made under paragraph (7).

### **Right of guardian ad litem to have access to records**

**61.**—(1) Where a person has been appointed as a guardian ad litem under this Order he shall have the right at all reasonable times to examine and take copies of—

- (a) any records of, or held by, an authority or an authorised person which were compiled in connection with the making, or proposed making, by any person of any application under this Order with respect to the child concerned;
- (b) any records of, or held by, an authority which were compiled in connection with any relevant functions, so far as those records relate to that child; or
- (c) any records of, or held by, an authorised person which were compiled in connection with the activities of that person, so far as those records relate to that child.

(2) In paragraph (1) “relevant functions” means personal social services functions (including functions exercisable on behalf of the Department by virtue of directions under Article 17(1) of the Health and Personal Social Services (Northern Ireland) Order 1972)(2).

(3) Where a guardian ad litem takes a copy of any record which he is entitled to examine under this Article, that copy or any part of it shall be admissible as evidence of any matter referred to in any—

- (a) report which he makes to the court in the proceedings in question; or
- (b) evidence which he gives in those proceedings.

(4) Paragraph (3) has effect regardless of any statutory provision or rule of law which would otherwise prevent the record in question being admissible in evidence.