

**39. Litigation guardian: section 40(2) of the Act**

- (1) A person may be appointed a litigation guardian for an adult person under the Act section 40(2) if the person —
  - (a) is an adult;
  - (b) has no interest in the proceedings that is adverse to the interest of the person needing the litigation guardian;
  - (c) can fairly and competently conduct the proceedings for the person needing the litigation guardian; and
  - (d) has consented to act as the litigation guardian.
- (2) A person may apply for the appointment, replacement or removal of a person as a litigation guardian of a party or potential party.
- (3) A person appointed as a litigation guardian of a party or potential party must give written notice of the appointment to an applicant or a notifiable person.
- (4) A person appointed as a litigation guardian of a party or potential party —
  - (a) is bound by these rules;
  - (b) must do anything required by these rules to be done by the party or potential party; and
  - (c) may, for the benefit of the party or potential party, do anything permitted by these rules to be done by the party or potential party.
- (5) Subject to the Act Part 4 Division 5, the Tribunal may order the costs of a litigation guardian to be paid —
  - (a) by a party; or
  - (b) from the income or property of the person for whom the litigation guardian is appointed.