



STATUTORY INSTRUMENTS.

S.I. No. 617 of 2023



PERSONAL INJURIES ASSESSMENT BOARD RULES, 2023 (NO. 2)

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PERSONAL INJURIES ASSESSMENT BOARD RULES, 2023 (NO. 2)

The Personal Injuries Assessment Board, in exercise of the powers conferred on it by section 46 and section 18(F) of the Personal Injuries Assessment Board Act 2003, hereby makes the following Rules:

1. These Rules may be cited as the Personal Injuries Assessment Board Rules, 2023 (No. 2).

2. These Rules come into operation on 14th December 2023.

3. In these Rules –

“the Act” means the Personal Injuries Assessment Board Act 2003 (as amended),

“the Appendix” means the Appendix to these Rules,

“the Board” means the Personal Injuries Assessment Board,

“the Minister” means the Minister for Enterprise, Trade and Employment.

4. (1) An application under section 11 of the Act shall –

(a) be made in writing or in electronic form, be signed by the claimant and include confirmation of each of the following:

(i) the claimant’s name, date of birth, phone number, and the address at which he or she ordinarily resides;

(ii) the claimant’s personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) or, in any case where the claimant does not have a personal public service number, a valid passport, driving licence, national identity card or a formal document issued by the Government of Ireland indicating an individual’s right to reside in the State;

(iii) the name and address of the person or each of the persons who the claimant alleges in the application is or are liable to him or her in respect of the accident or incident concerned;

(iv) the date and time on which it is alleged that the accident or incident the subject of the application occurred;

(v) a description of how and where it is alleged that the accident or incident the subject of the application occurred;

- (vi) a description of the personal injuries allegedly sustained by the claimant in the accident or incident the subject of the application;
 - (vii) that the medical report enclosed with the application describes the personal injuries allegedly sustained by the claimant in the accident or incident the subject of the application.
- (b) Without prejudice to the clear meaning of sub-rule 4(1)(a) and section 11(3A) of the Act the following shall apply:
- (i) the term “medical report” which must be submitted in accordance with section 11(3A)(g) of the Act shall have its plain and ordinary meaning and is a report prepared by a medical practitioner who has treated the claimant in respect of the personal injuries, the subject of the relevant claim, in relation to those injuries and the Board will publish a list of the types of medical practitioners from whom it will accept medical reports prepared by on its website;
 - (ii) subject to sub-rule 4(1)(b)(iii) the Board will not consider an application to be complete for the purposes of section 50 of the Act if the requirements of sub-rule 4(1)(a) are not complied with;
 - (iii) notwithstanding the provisions of sub-rule 4(1)(b)(ii) the Board notes that there are certain classes of claim where a medical report is not ordinarily required and it shall publish a list of those classes of claims on its website.

5. (1) In addition to the requirements of sub-rule 4(1)(a) the claimant shall provide the Board with the following documents:

- (i) a copy of a document that has been given or sent, by or on behalf of the claimant, to the person or persons whom he or she believes to be liable to pay compensation to him or her in respect of the claim, notifying the person or persons of his or her relevant claim and seeking the payment of compensation, which copy shall indicate the date on which the document was so given or sent;
- (ii) copies of any other correspondence between the claimant and that person or those persons in relation to the relevant claim,
- (iii) receipts, vouchers or other documentary proof in relation to loss or damage in respect of which special damages are being sought in the relevant claim;
- (iv) any other document that the claimant considers relevant to the claim;

- (v) any other document that the Board or any member of the staff of the Board duly authorised in that behalf by the Board considers relevant to the claim and specifies in a notice in writing given or sent to the claimant before the receipt by the Board of the application.

(2) An application under section 11 of the Act shall be accompanied by such charge in relation to an application as may be imposed on the claimant by the Board pursuant to Regulations made by the Minister under section 22 of the Act.

(3) In relation to a relevant claim, the date of –

- (a) the receipt by the Board of an application under section 11 of the Act for the purposes of section 13 of that Act, and
- (b) the making of an application under section 11 of the Act, for the purposes of section 50(a) of that Act,

shall be the date on which the application in a form specified in sub-rule 4(1)(a) and containing the information specified in sub-rule 4(1)(a) having regard to the contents of sub-rule 4(1)(b) is acknowledged in writing as having been received in complete format by the Board.

6. An application under section 11 of the Act shall be accompanied by the following confirmation from the claimant:

“I confirm that the information provided with this application is true and accurate.

I understand that in accordance with section 80A of the Act it is a criminal offence to knowingly or recklessly provide false or inaccurate information to the Board and I confirm that I have reviewed this application and the documents submitted with it in full.

I further acknowledge that I have a continuing obligation to ensure that all information provided to the Board on my behalf is true and accurate.

Signed:

Dated:”

7. Any notice to be served under section 13(1)(b) of the Act on the person or each of the persons who the claimant alleges in an application under section 11 of the Act is or are liable to him or her in respect of the relevant claim shall be in the form specified in Form No. 1 of the Appendix.

8. The Board may supply a copy of any records or other documents furnished by a claimant, a respondent or any other person to it pursuant to the Act or the exercise by it or any member of its staff of powers under the said Act, to a respondent, a claimant or as the case may be such other person as the Board considers appropriate in relation to the relevant claim concerned.

9. (1) In a case where section 18(3) or (6) of the Act applies in respect of one or more of the respondents to the relevant claim and the claimant wishes to bring proceedings in respect of that claim against that respondent or those respondents (acting, unless he, she or they are no longer of unsound mind, by a guardian or a committee), the Board may, subject to sub-rule (2), issue to a claimant an authorisation to bring proceedings in respect of his or her relevant claim against the person or persons concerned.

(2) The Board may defer making a decision as to whether to issue an authorisation referred to in sub-rule (1) unless and until the relevant claim concerned has been the subject of an assessment or, as appropriate, fresh assessment under the Act.

10. (1) In a case where the claimant wishes to bring proceedings in respect of his or her relevant claim against one or more persons whom he or she omitted, through a genuine oversight or ignorance of all of the facts relating to the matter, to specify in his or her application under section 11 of the Act as being a person or persons liable to him or her in respect of that claim, the Board may, subject to sub-rule (2), issue to a claimant an authorisation to bring proceedings in respect of his or her relevant claim against the person or persons concerned.

(2) The Board may defer making a decision as to whether to issue an authorisation referred to in sub-rule (1) unless and until the relevant claim concerned has been the subject of an assessment or, as appropriate, fresh assessment under the Act.

11. A withdrawal by the claimant under section 47 of the Act of an application made by him or her under section 11 of the Act shall be made in writing or by electronic mail in the form specified in Form No. 2 of the Appendix.

12. Without prejudice to section 38 of the Act, where, in relation to a relevant claim, a claimant and a respondent or, if there are 2 or more respondents, more than one of those respondents, notify the Board in writing of an agreement made between them regarding the apportionment of liability between them, an order to pay issued under that section shall include a statement to that effect and shall indicate the extent of the apportionment agreed to.

Mediation

13. Mediation shall be introduced on a phased basis for certain classes of relevant claims by way of Commencement Order made by the Minister.

14. At the discretion of the Board, a mediator may be assigned to deal with a relevant claim referred to the Board as soon as practicable from the receipt by

the Board of the consent of both the claimant and the respondent(s) to attend a mediation.

15. The Board may facilitate the mediation process under Chapter 1A of the Act to take place by way of telephone, other electronic means, or in person at the discretion and direction of the Board.

16. Subject to section 18B(10) of the Act, the confidentiality of the mediation process shall be maintained within the Board by means to include:

(1) the mediator will be bound by their obligations pursuant to section 18(E) of the Act:

- (i) to maintain the confidentiality of the mediation; and
- (ii) not to disclose any report prepared by him or her under section 18C of the Act otherwise than in accordance with that section,

(2) the mediator shall ensure that all parties to a mediation are aware of their obligations to be bound by confidentiality such that any information shared during the mediation process shall not be disclosed in relation to an assessment made under section 20 of the Act or any proceedings before a Court or otherwise,

(3) subject to section 18B(10) of the Act, the Board shall ensure that all communications (including oral statements) and all records and notes relating to a mediation including a report under section 18C of the Act shall not be available to the staff of the Board carrying out an assessment of the relevant claim pursuant to section 20 of the Act.

17. The Board shall appoint a panel of mediators who are not employees of the Board to carry out mediations under Chapter 1A of the Act.

18. The Board may also assign the functions of mediators under Chapter 1A of the Act to specific staff members of the Board. A staff member who is assigned the functions of a mediator will have no role in the assessment of that claim and will not have access to any materials relating to that claim to which they would not have access were they not assigned the functions of a mediator.

19. Without prejudice to section 18C of the Act, following the completion of a mediation, the mediator shall furnish his or her report pursuant to section 18C of the Act to the Board as soon as practicable.

20. A mediation shall be completed when the terms of the agreement reached are signed by all parties to the mediation. The date of completion shall be deemed to be the date when all parties have executed the agreement. In accordance with section 18(C)(3) of the Act, and notwithstanding any

provision contained in a written agreement, an agreement will not become binding on the parties for 10 days following the completion of the mediation.

21. A mediation may be abandoned by the Board in accordance with its powers pursuant to section 18B of the Act where, in its sole discretion, it believes it appropriate to do so.

22. A mediation may be concluded by a mediator without resolution of the relevant claim where the mediator deems it appropriate and at his or her sole discretion acting professionally and diligently in accordance with their obligations.

23. Where an attempt to resolve a relevant claim by mediation is unsuccessful and the parties have consented to assessment of the relevant claim pursuant to section 14 of the Act, the Board shall refer the relevant claim for assessment under section 20 of the Act.

24. The Personal Injuries Assessment Board Rules 2023 (S.I. No. 425/2023) are revoked with effect from the commencement of these Rules on 14th December 2023.

Appendix

Form No. 1

Notice to respondent(s) under section 13 of the Personal Injuries Assessment Board Act 2003

This notice is addressed to [insert name of respondent(s)]

Name of claimant: _____

Name(s) of respondent(s): _____

You are hereby notified that the Personal Injuries Assessment Board has received an application made under section 11 of the Personal Injuries Assessment Board Act 2003 by the above named claimant, alleging that you are liable to him/her in respect of the claim referred to in the attached papers.

You are hereby requested to state to the Board in writing or in electronic form, within a period of 90 days from the date of this notice, whether you consent to an assessment of the claimant's claim being made under section 20 of the said Act.

Please note that if you-

- (a) state in writing or in electronic form, in response to this notice, within the period specified, that you do consent to such an assessment being made,

or

- (b) fail to state in writing or in electronic form in response to this notice, within the period specified, whether or not you do so consent,

then the Board shall subject to section 17 and 18 of the said Act, arrange for such an assessment to be made.

And further please note that if you state in writing or in electronic form, in response to this notice, within the period specified, that you do not consent to such an assessment being made, it shall be the duty of the Board, as soon as may be practicable after that statement is received by it, to issue to the claimant a document that states that the claimant is authorised to and operating to authorise the claimant to bring proceedings in respect of his/her claim.

Your consent to an assessment being made under the said section 20 does not constitute an admission of liability on your part or affect any right that you may have to an indemnity or contribution from any other person or persons.

Issued by the Personal Injuries Assessment Board

on this the _____ day of _____, 2023.

Formal Notice

Notice to respondent(s) under Section 13 of the Personal Injuries Resolution Board Act 2003-2022

This notice is addressed to [insert name of respondent(s)].

Name of claimant: _____

Name(s) of respondent(s): _____

You are hereby notified that the Personal Injuries Assessment Board (PIAB) (the “**Board**”) has received an application made pursuant to Section 11 of the Personal Injuries Assessment Board Act 2003 (as amended) (“the “**Act**”) by the above-named claimant, alleging that you are liable to him/her in respect of the claim referred to in the attached papers.

You are hereby requested to indicate to the Board in writing, within a period of 90 days from the date of this Notice, whether you consent to:

- 1: An assessment of the claimant’s claim being made under section 20 of the Act;
- 2: Mediation of the claim under Chapter 1A of the Act; or
- 3: Both an assessment and mediation as referred to above.

Please note that if you –

1: a: Inform the Board in response to this notice, within the period specified, that you do consent to such an assessment being made,

or

1: b: Fail to inform the Board, in response to this notice, within the period specified, whether or not you do so consent,

then the Board shall, subject to sections 17 and 18 of the said Act, arrange for such an assessment to be made.

Please also note that -

2: a: Mediation can only be arranged if you inform the Board, within the period specified (in any event, before the assessment of the claimant’s claim under s20 of the Act), that you consent to such a mediation taking place.

2: b: You must also inform the Board whether you consent to both assessment and mediation of the relevant claim. Subject to the claimant’s mutual consent to mediation, and where the Board considers it appropriate, the Board may arrange for mediation prior to assessment.

Further, please note that if you inform the Board, in response to this notice, within the period specified, that you do not consent an assessment being made, it shall be the duty of the Board, as soon as may be practicable after that statement is received by it, to issue to the claimant a document that states that the claimant is authorised to, and operating to authorise the claimant to, bring proceedings in respect of his/her claim.

Finally, please note that if you inform the Board, in response to this notice, within the period specified, that you do not consent an assessment being made but that you do consent to mediation, subject to the claimant's mutual consent to mediation, the Board may arrange for mediation. In the absence of the claimant's mutual consent to mediation, it shall be the duty of the Board, as soon as may be practicable after that statement is received by it, to issue to the claimant a document that states that the claimant is authorised to, and operating to authorise the claimant to, bring proceedings in respect of his/her claim.

Your consent to mediation under Chapter 1A of the Act and/or your consent to an assessment being made under said section 20 of the Act do not constitute admissions of liability on your part or affect any right that you may have to an indemnity or contribution from any other person or persons.

Issued by the Personal Injuries Assessment Board
on this the ____ day of ____, 2023.

Form No. 2

Withdrawal of Application under section 47 of the Personal Injuries Assessment Board Act 2003

Name of claimant: _____

Name(s) of respondent(s): _____

Relevant claim: _____

Whereas 14 or more days have elapsed from the service on the claimant by the Board of a Notice of Desirability of Obtaining Legal Advice;

Now then the claimant hereby withdraws the application made by him/her under section 11 of the Act of 2003 in respect of the above relevant claim.

Signed by (or on behalf of) the claimant



GIVEN under the Official Seal of the Personal Injuries Assessment Board,
11 December, 2023.

DERMOT DIVILLY,
Chairperson Personal Injuries Assessment Board.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
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