



STATUTORY INSTRUMENTS.

S.I. No. 132 of 2024



HIGHER EDUCATION AUTHORITY ACT 2022 (APPEALS)
REGULATIONS 2024

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I, SIMON HARRIS, Minister for Further and Higher Education, Research, Innovation and Science, in exercise of the powers conferred on me by sections 3 and 71 of the Higher Education Authority Act 2022 (No. 31 of 2022) and following consultation with An tÚdarás um Ard-Oideachas, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the Higher Education Authority Act 2022 (Appeals) Regulations 2024.

(2) These Regulations come into operation on the 5th day of April 2024.

Definitions

2. In these Regulations -

“Act” means the Higher Education Authority Act 2022;

“appeal” means an appeal under section 42(6) or 65(4) of the Act;

“appellant” means -

- (a) a funded body as respects an appeal under section 42(6) of the Act, or
- (b) a designated institution of higher education as respects an appeal under section 65(4) of the Act,

which may bring an appeal against a decision or a determination, as the case may be, of the Chief Executive Officer;

“Chief Executive Officer” means the Chief Executive Officer of An tÚdarás um Ard-Oideachas.

Prescribed period for lodging appeal

3. (1) Subject to paragraph (2), an appeal shall be lodged with the Minister not later than 14 days after the date of the notice of the decision or determination, as the case may be, of the Chief Executive Officer to which the appeal relates.

(2) The Minister may extend the period for lodging an appeal where he or she is satisfied that the appellant has given reasonable cause to so extend.

Appeal lodged with Minister

4. An appeal shall -

- (a) be in writing,
- (b) state the name and address of the appellant,
- (c) state the grounds for the appeal, and
- (d) be accompanied by -
 - (i) a copy of the decision or determination, as the case may be, of the Chief Executive Officer to which the appeal relates,
 - (ii) a statement of the facts and contentions upon which the appellant intends to rely, and
 - (iii) such other documents as the appellant wishes to submit in support of the appeal.

Notification of receipt of appeal

5. The Minister shall notify the appellant in writing of the receipt by him or her of the appeal.

Application to stay or suspend operation of remedial or other measure

6. (1) Where an appellant makes an application to the Chief Executive Officer to stay the operation of a remedial or other measure in accordance with section 42(8) or 65(6), as the case may be, of the Act, the Chief Executive Officer shall provide his or her decision to the appellant in writing not later than 7 days after the date of the receipt of the application.

(2) If the decision of the Chief Executive Officer referred to in paragraph (1) is to refuse the application, the appellant may, within the period provided for in Regulation 13, apply to the appeals board to have the operation of the remedial or other measure concerned suspended until the determination of the appeal concerned by the appeals board.

Notification of establishment of appeals board

7. The Minister shall notify the appellant in writing of the establishment of the appeals board as soon as practicable after its establishment under section 69 of the Act.

Provision of information by Minister to appeals board

8. The Minister shall, as soon as practicable after the establishment of an appeals board under section 69 of the Act, furnish a copy of the appeal and the accompanying documents referred to in paragraph (d) of Regulation 4 to the appeals board.

Service of appeal on Chief Executive Officer

9. An appeals board established to determine an appeal shall, as soon as practicable after the receipt of the appeal and accompanying documents from the Minister in accordance with Regulation 8 -

- (a) furnish a copy of the appeal and those accompanying documents to the Chief Executive Officer, and
- (b) invite the Chief Executive Officer to make submissions in writing in relation to the appeal to the appeals board within such period as it may specify in the invitation.

Submissions by Chief Executive Officer

10. (1) The Chief Executive Officer may make submissions in writing to the appeals board in relation to an appeal within -

- (a) the period specified in the invitation referred to in paragraph (b) of Regulation 9, or
- (b) such other period as may be agreed between the Chief Executive Officer and the appeals board.

(2) An appeals board shall -

- (a) furnish a copy of any submissions made to it under paragraph (1) to the appellant as soon as practicable after the submissions are received by the appeals board, and
- (b) invite the appellant to reply in writing to those submissions within such period as it may specify in the invitation.

Reply by appellant to submissions

11. (1) An appellant may, within the period specified by an appeals board under Regulation 10(2)(b) or such other period as may be agreed between the appellant and the appeals board, reply in writing to the submissions made by the Chief Executive Officer.

(2) The appeals board shall furnish a copy of any reply submitted to it under paragraph (1) to the Chief Executive Officer as soon as practicable after the reply is received by the appeals board.

Other bodies or persons concerned

12. An appeals board may furnish a copy of the appeal (or, as may be appropriate, an extract therefrom) to such other body or person as it considers to be concerned in the matter which is the subject of the appeal.

Period for making application to suspend operation of remedial or other measure

13. An application by an appellant under section 42(9) or 65(7) of the Act to have the operation of a remedial or other measure suspended until the determination of the appeal concerned by the appeals board shall be made to the appeals board not later than 14 days from the date of the notification to the appellant under Regulation 7 of the establishment of the appeals board.

Application to appeals board to suspend operation of remedial or other measure

14. An application referred to in Regulation 13 shall -

- (a) be in writing,
- (b) state the name and address of the appellant, and
- (c) be accompanied by -
 - (i) a copy of the decision of the Chief Executive Officer refusing the application of the appellant under section 42(8) or 65(6), as the case may be,
and
 - (ii) such other documents as the appellant wishes to submit in support of the application.

Notification of receipt of application

15. The appeals board shall notify the appellant in writing of the receipt of the application referred to in Regulation 13.

Notification of application to Chief Executive Officer

16. An appeals board established to determine an appeal shall, as soon as practicable after the receipt of an application referred to in Regulation 13, notify the Chief Executive Officer of the receipt of the application.

Further information

17. (1) An appeals board may, for the purposes of determining an appeal or an application referred to in Regulation 13, at any time request the appellant, the Chief Executive Officer or any other person or body appearing to the board to be concerned to furnish to the appeals board -

- (a) further particulars regarding the appeal or application, as the case may be, or
- (b) any documentation that it considers relevant to the appeal or the application, as the case may be.

(2) An appeals board shall, where it makes a request under paragraph (1), specify the period within which the particulars or documentation requested, as the case may be, shall be furnished.

(3) An appellant, the Chief Executive Officer or any other person or body referred to in paragraph (1) shall furnish the particulars or documentation referred to in that paragraph within the period specified under paragraph (2) or such other period as may be agreed with the appeals board.

Hearing

18. (1) An appeals board shall determine the procedures for a hearing (if one is being held) and all parties to the appeal shall comply with those procedures.

(2) Where, in the opinion of an appeals board, an oral hearing is required to determine an appeal, the appeals board shall, as soon as may be, fix a date and place for the hearing and give reasonable notice of the hearing to the appellant, the Chief Executive Officer and any other person or body appearing to the appeals board to be concerned in the matter the subject of the appeal.

(3) Each of the parties to an appeal shall be entitled to be heard at the hearing and to present evidence to the appeals board.

(4) An appeals board may examine the appellant or a duly authorised person attending on its behalf, the Chief Executive Officer and a person appearing to the appeals board to be concerned in the matter the subject of the oral hearing.

(5) An appeals board may determine an appeal notwithstanding the refusal or failure of one or more of the parties to the appeal to -

- (a) attend the hearing, or
- (b) comply with these Regulations.

(6) An appeals board may adjourn the hearing by it of a matter until a date specified by it.

Withdrawal of appeal

19. (1) An appellant who lodges an appeal under Regulation 3 may withdraw the appeal by notice in writing to the Minister.

(2) The Minister shall notify an appeals board of the withdrawal of an appeal under paragraph (1) as soon as practicable after the receipt of the notice under that paragraph.

(3) An appeals board shall notify the Chief Executive Officer and any other person or body concerned in the matter and to whom the appeal has been furnished by the appeals board of the withdrawal of an appeal under paragraph (1) as soon as practicable after the appeals board has been notified of that withdrawal by the Minister.

Determination of application referred to in Regulation 13 to suspend operation of remedial or other measure

20. (1) An appeals board shall make its determination of an application referred to in Regulation 13 within 14 days of the later of -

- (a) where no particulars or documentation are requested by the appeals board under Regulation 17, the date of the receipt of the application, or
- (b) either -
 - (i) the date of the receipt by the appeals board of the last particulars or documentation in relation to the application referred to in Regulation 13 requested by an appeals board under Regulation 17, or
 - (ii) where no particulars or documentation referred to in subparagraph (i) are furnished, the day following the last day of the period specified or agreed, as the case may be, under paragraph (3) of Regulation 17 for the receipt of particulars or documentation.

Determination of appeal

21. (1) An appeals board shall determine an appeal -

- (a) where there is no hearing, within 30 days of the later of -
 - (i) where no submissions are made by the Chief Executive Officer under Regulation 10, the day following the last day of the period specified or agreed, as the case may be, under that Regulation for the making of submissions,
 - (ii) the date of the receipt by the appeals board of a reply from the appellant under paragraph (1) of Regulation 11 to the submissions made by the Chief Executive Officer,
 - (iii) where no reply referred to in subparagraph (ii) is received, the day following the last day of the period specified or agreed, as the case may be, under paragraph (1) of Regulation 11 for a reply, or
 - (iv) either -
 - (I) the date of the receipt by the appeals board of the last particulars or documentation in relation to the appeal requested by the appeals board under Regulation 17, or
 - (II) where no particulars or documentation referred to in clause (I) are furnished, the day following the last day of the period specified or agreed, as the case may be, under paragraph (3) of Regulation 17 for the receipt of particulars or documentation.

or

- (b) where there is a hearing, within 30 days of the completion of the hearing.



GIVEN under my Official Seal,
5 April, 2024.

SIMON HARRIS,
Minister for Further and Higher Education, Research,
Innovation and Science.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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