



STATUTORY INSTRUMENTS.

S.I. No. 263 of 2007.



DISABILITY (ASSESSMENT OF NEEDS, SERVICE STATEMENTS
AND REDRESS) REGULATIONS 2007

(Prn. A7/1084)

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I, MARY HARNEY, Minister for Health and Children, in exercise of the powers conferred on me by Section 21 of the Disability Act 2005 do hereby make the following regulations:

1. These Regulations may be cited as the Disability (Assessment of Needs, Service Statements and Redress) Regulations 2007.

2. These Regulations shall come into operation on the 1st day of June 2007.

Interpretation

3. (1) In these Regulations—

“Act of 2005” means the Disability Act 2005;

“Act of 2004” means the Education for Persons with Special Educational Needs Act 2004;

“appeals board” means the Special Education Appeals Board established under section 36 of the Act of 2004;

“appeals officer” shall be construed in accordance with section 16 of the Act of 2005;

“applicant” means the person who is the subject of an application;

“application” means an application for an assessment in accordance with section 9 of the Act of 2005;

“assessment” means an assessment undertaken or arranged by the Executive to determine, in respect of a person with a disability, the health and educational needs (if any) occasioned by the disability and the health services or education services (if any) required to meet those needs;

“assessment officers” shall be construed in accordance with section 8 of the Act of 2005;

“assessment report” shall be construed in accordance with section 8 of the Act of 2005;

“child” means a person under the age of 18 years;

“complaint” shall be construed in accordance with section 14 of the Act of 2005;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 12th June, 2007.*

“complaints officer” shall be construed in accordance with section 15 of the Act of 2005;

“Council” means the National Council for Special Education;

“disability”, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment;

“education service provider” shall be construed in accordance with section 7 of the Act of 2005;

“Executive” means the Health Service Executive;

“liaison officer” shall be construed in accordance with section 11 of the Act of 2005;

“service statement” means a statement prepared by the liaison officer in accordance with section 11(2) of the Act of 2005;

“service” means a service or facility of any kind provided by a public body which is available to or accessible by the public generally or a section of the public and, without prejudice to the generality of the foregoing, includes

- (a) the use of any place or amenity owned, managed or controlled by a public body,
- (b) the provision of information or an information resource or a scheme or an allowance or other benefit administered by a public body,
- (c) any cultural or heritage services provided by such a body, and
- (d) any service provided by a court or other tribunal.

(2) In the definition of disability “substantial restriction” shall be construed as meaning a restriction which

- (a) is permanent or likely to be permanent, results in a significant difficulty in communication, learning or mobility or in significantly disordered cognitive processes, and
- (b) gives rise to the need for services to be provided continually to the person whether or not a child or, if the person is a child, to the need for services to be provided early in life to ameliorate the disability.

(3) A word or expression that is used in these regulations and is also used in the Act of 2005 has, unless the contrary intention appears, the same meaning in these regulations as it has in the Act of 2005.

Application for an Assessment

4. Where a person in accordance with the provisions of section 9(1)(a) or (b) of the Act of 2005 wishes to make an application to the Executive for an assessment of their needs they shall make such an application in writing using the form published for that purpose by the Executive.

5. The Executive shall process applications for assessment in order of the date on which they are received by the Executive. Where two or more applications are received on the same date then they shall be processed in alphabetical order of the surname of the applicant.

6. (1) The Executive shall acknowledge receipt of the completed application form within 14 days of the receipt thereof. This acknowledgement shall specify the date on which the completed application form was received by the Executive. This acknowledgement shall also specify the date on which the assessment will commence which date shall not be later than three months from the date of the receipt of the completed application form.

(2) If any application form received by the Executive is incomplete the Executive shall, without undue delay, notify the applicant in writing of the omissions and shall advise the applicant of the steps which require to be taken in order to ensure the application form is completed.

7. This acknowledgement shall be sent to the applicant and, as appropriate,

(a) Where an application is made by a person under section 9(1)(b) to the person who made the application and

(b) Where the application is made in respect of a person who is under 18 to any person nominated for receipt of the acknowledgement on the application form.

8. Should the Executive refuse an application in accordance with section 9(7) of the Act of 2005 this refusal shall be communicated in writing to the applicant or where appropriate to any other person referred to in 7(a) and 7(b). The said communication shall specify the basis for this refusal.

Timescale for the completion of the assessment of needs

9. The Executive shall commence the assessment process as soon as possible after the completed application form has been received but not later than three months after that date.

10. The Executive shall complete the assessment and forward the assessment report to the Liaison Officer within a further three months from the date on which the assessment commenced, save for in exceptional circumstances, when the assessment will be completed without undue delay. In circumstances where the assessment will not be completed within three months of the commencement of the assessment, the Executive shall specify in writing, before the three month deadline has expired, to the individual concerned the reasons why it will not be completed within the three month period and shall specify a timeframe within which it is expected the assessment will be completed.

11. Each assessment report shall specify a date for the review of the assessment and that review date shall be no later than 12 months from the date on which the assessment report is issued.

12. Where a person makes a further application for assessment in accordance with section 9(8) of the Act of 2005, the review date shall be no later than 12 months from when the report on the further assessment is issued.

Assessment Officers

13. In authorising an employee to be an assessment officer the Executive shall have regard to the requirements of the role of the Assessment Officer, as provided for by section 8 of the Act of 2005 and shall also have regard to the need for such persons to have

- (a) A thorough understanding of the provisions of the Act of 2005, the Act of 2004 and a familiarity with the provisions of the Mental Health Act 2001, the Health Act 2004 and the Health Act 2007;
- (b) An excellent knowledge and understanding of disability and service issues;
- (c) strong organisational and interpersonal skills;
- (d) an ability to work with multi-disciplinary teams;
- (e) good report writing skills.

14. The Executive shall ensure that all staff engaged in the Assessment of Need process will be competent and knowledgeable in conducting or co-ordinating a high quality assessment of need and that they shall hold the appropriate qualifications and shall be up to date with developments in their area of disability and assessment.

15. The Executive shall ensure that a standardised approach is taken with regard to the training of assessment officers (or those carrying out an assessment on their behalf), particularly in relation to the interpretation of legal definitions in the Act of 2005. The Executive shall review the requisite skills and competencies from time to time, as appropriate.

16. The Executive shall ensure that the assessments are carried out in accordance with the standards for the assessment as determined and approved by the Health Information and Quality Authority.

Service Statements:

17. The Executive shall arrange for the preparation of a service statement by the Liaison Officer, appointed by the Executive, in accordance with section 11(1) and 11(2) of the Act of 2005.

18. The service statement shall be written in a clear and easily understood manner and it shall specify:
- (a) the health services which will be provided to the applicant;
 - (b) the location(s) where the health service will be provided;
 - (c) the timeframe for the provision of the health service;
 - (d) the date from which the statement will take effect;
 - (e) the date for review of the provision of services specified in the service statement;
 - (f) any other information that the Liaison Officer considers to be appropriate, including the name of any other public body that the assessment report may have been sent to under section 12 of the Act.
19. The service statement shall be completed within one month following receipt of the assessment report by the Liaison Officer.
20. The assessment report and the service statement shall be sent at the same time to the applicant, the Executive, and, where appropriate, to the Chief Executive Officer of the Council and to the head of the Education Service Provider within one month of the assessment report being received by the Liaison Officer.
21. Where a service statement is amended in accordance with section 11(9) of the Act of 2005, it shall be sent to the applicant within one month of the preparation of the amended service statement and at the same time shall be sent to the Executive and where appropriate, to the Chief Executive Officer of the Council and to the head of the Education Service Provider.
22. The service statement shall be reviewed no later than 12 months after the statement was drawn up or no later than 12 months from when the statement was either last reviewed or amended.
- Complaints*
23. When making a complaint to the Executive in accordance with section 14 of the Act of 2005, the person the subject of an application or a person making an application under section 9(1)(b) of the Act, as the case may be, shall do so in writing in the form prescribed in the complaints form for this purpose published by the Executive.
24. A complaint shall be made as soon as is reasonably possible and not later than three months after the date on which the cause of the complaint has arisen.

Appeals

25. When making an appeal to the Appeals Officer in accordance with section 18 of the Act of 2005 the appellant shall do so in writing in the form prescribed in the appeals form for this purpose published by the Appeals Officer.



GIVEN under my Official Seal,
1 June 2007

MARY HARNEY,
Minister for Health and Children.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation).

These regulations make various provisions to enable Part 2 of the Disability Act 2005, as they relate to persons under five years of age to have full effect, and in particular to provide for procedures and timescales for the making of applications for assessment of needs and the preparation of service statements.

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