



Number 3 of 2019

Personal Injuries Assessment Board (Amendment) Act 2019



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PERSONAL INJURIES ASSESSMENT BOARD (AMENDMENT) ACT 2019

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[No. 3.]

*Personal Injuries Assessment
Board (Amendment) Act 2019.*

[2019.]

ACTS REFERRED TO

Civil Liability Act 1961 (No. 41)

European Parliament Elections Act 1997 (No. 2)

Personal Injuries Assessment Board Act 2003 (No. 46)

Personal Injuries Assessment Board Acts 2003 and 2007

Statute of Limitations (Amendment) Act, 1991 (No. 18)

Statute of Limitations, 1957 (No. 6)



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PERSONAL INJURIES ASSESSMENT BOARD (AMENDMENT) ACT 2019

An Act to amend and extend the Personal Injuries Assessment Board Act 2003; and to provide for related matters. [25th February, 2019]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Principal Act” means the Personal Injuries Assessment Board Act 2003.

Amendment of section 13 of Principal Act

2. (1) Section 13 of the Principal Act is amended—

(a) by the substitution of the following subsection for subsection (1):

“(1) (a) As soon as practicable after receipt of an application under section 11, the Board may serve a preliminary notice on 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 relevant claim (who or each of whom is referred to in this Part as a ‘respondent’) notifying the respondent of the relevant claim.

(b) As soon as practicable after receipt of—

(i) an application under section 11,

(ii) a report prepared by a medical practitioner under section 11(3) (c), and

(iii) the charge imposed on the claimant pursuant to regulations made under section 22(1),

the Board shall serve the following notice on the respondent.”,

and

(b) in subsection (2), by the substitution of “That notice under subsection (1)(b)” for “That notice”.

- (2) The amendments effected by *subsection (1)* shall apply to applications made under section 11 of the Principal Act after the coming into operation of this section.

Amendment of section 14 of Principal Act

3. Section 14 of the Principal Act is amended—

- (a) in subsection (1)(a), by the substitution of “a notice served under section 13(1)(b)” for “a notice under section 13”, and
- (b) in subsection (2), by the substitution of “a notice served under section 13(1)(b)” for “a notice under section 13”.

Amendment of section 17 of Principal Act

4. Section 17(1)(b) of the Principal Act is amended—

- (a) in subparagraph (v), by the substitution of “them, or” for “them.”, and
- (b) by the insertion of the following subparagraphs after subparagraph (v):

“(vi) the notice under section 13(1)(b) on 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 relevant claim cannot be served on, or given, or issued to the person in accordance with section 79, or

(vii) the respondent has notified the Board of his or her intention not to accept the assessment when made, or

(viii) in its opinion, the relevant claim falls within a class of relevant claims to which Regulation (EC) No. 864/2007 of the European Parliament and of the Council of 11 July 2007¹ on the law applicable to non-contractual obligations (Rome II) applies, or

(ix) in its opinion, the relevant claim falls within a class of relevant claims where a settlement has been negotiated for the benefit of a minor or person of unsound mind (including a dependant minor or person of unsound mind where the relevant claim arises from fatal injuries) to be approved by the court.”.

Amendment of section 22 of Principal Act

5. Section 22 of the Principal Act is amended by the substitution of the following subsection for subsection (4):

“(4) Different amounts may be specified in regulations under subsection (1)—

(a) for the purposes of subsection (2)(b)—

(i) in relation to different classes of relevant claim, and

(ii) in relation to different stages of a relevant claim,

and

¹ OJ No. L 199, 31.7.2007, p.40.

- (b) for the purposes of subsection (2)(a) and (b) in relation to the submission of documents in electronic and paper form.”.

Amendment of section 49 of Principal Act

6. Section 49 of the Principal Act is amended, in subsection (3), by the substitution of “the notice served under section 13(1)(b)” for “the notice served under section 13”.

Amendment of section 50 of Principal Act

7. (1) The Principal Act is amended by the substitution of the following section for section 50:

“50. In reckoning any period of time for the purpose of any applicable limitation period in relation to a relevant claim (including any limitation period under the Statute of Limitations, 1957, section 9(2) of the Civil Liability Act 1961, the Statute of Limitations (Amendment) Act, 1991 and an international agreement or convention by which the State is bound)—

- (a) the period beginning on the making of an application under section 11 in relation to the claim and ending 6 months from the date of issue of an authorisation under, as appropriate, section 14, 17, 32, 36 or 49 shall be disregarded insofar as it relates to one or more respondents named at the time of the application made under section 11, or
- (b) the period beginning on the addition of a further respondent or respondents in relation to the claim and ending 6 months from the date of issue of an authorisation under, as appropriate, section 14, 17, 32, 36 or 49 or rules under section 46(3)(b) shall be disregarded insofar as it relates to such further respondent or respondents.”.

- (2) The amendment effected by *subsection (1)* shall apply to applications made under section 11 of the Principal Act after the coming into operation of this section.

Costs in proceedings where claimant or respondent does not comply with request of assessors

8. (1) The Principal Act is amended by the insertion of the following section after section 51B:

“51C.(1) This section applies to a relevant claim where—

- (a) the assessors have requested the claimant to furnish to them additional information or documents pursuant to section 23(1) and the claimant has not complied with that request,
- (b) the assessors have requested the respondent or respondents to furnish to them additional information or documents pursuant to

section 23(2) and the respondent or respondents has or have not complied with that request,

- (c) the assessors have requested the claimant or the respondent or respondents to provide assistance to retained experts or furnish information or documents or co-operate with those experts pursuant to section 23(4) and the claimant or the respondent or respondents, as appropriate, has or have not complied with that request, or
 - (d) the assessors have requested the claimant to submit himself or herself to a medical examination pursuant to section 24(2) and the claimant has not submitted himself or herself to the medical examination.
- (2) If as respects a relevant claim to which this section applies, a claimant brings proceedings in accordance with this Act, the court may, in its discretion, taking into account any failure to comply or submit in the manner specified in subsection (1) and all other relevant circumstances, order that—
- (a) no award of costs nor any other order providing for payment of costs may be made—
 - (i) in favour of the claimant where subsection (1)(a) or (1)(d) applies,
 - (ii) in favour of the defendant or defendants where subsection (1)(b) applies, or
 - (iii) in favour of the claimant or the defendant or defendants, as appropriate, where subsection (1)(c) applies,
 - (b) the claimant pay all or a portion of the costs of the defendant or defendants where subsection (1)(a), (c) or (d) applies, or
 - (c) the defendant or defendants pay all or a portion of the costs of the claimant where subsection (1)(c) applies.
- (3) This section applies notwithstanding section 51.”.

- (2) The amendment effected by *subsection (1)* shall apply to—
- (a) an application under section 11 of the Principal Act made on or after the date on which this section comes into operation, and
 - (b) an application under section 11 of the Principal Act made before the date on which this section comes into operation, where—
 - (i) the assessors have not, before that date, requested the claimant to furnish to them additional information or documents pursuant to section 23(1) of the Principal Act,

- (ii) the assessors have not, before that date, requested the respondent or respondents to furnish to them additional information or documents pursuant to section 23(2) of the Principal Act,
- (iii) the assessors have not, before that date, requested the claimant or the respondent or respondents to provide assistance to retained experts or furnish information or documents or co-operate with those experts pursuant to section 23(4) of the Principal Act, or
- (iv) the assessors have not, before that date, requested the claimant to submit himself or herself to a medical examination pursuant to section 24(2) of the Principal Act.

Amendment of section 54 of Principal Act

9. Section 54 of the Principal Act is amended, in subsection (1), by the insertion of the following paragraph after paragraph (b):

“(ba) to review from time to time the Book of Quantum and at least once every 3 years to prepare and publish a revised Book of Quantum.”.

Amendment of section 54A of Principal Act

10. Section 54A of the Principal Act is amended—

- (a) in subsection (1), by the substitution of “paragraph (b), (ba), (c), (d) or (e) of section 54(1)” for “section 54(1)(c)”, and
- (b) by the insertion of the following subsections after subsection (2):

“(3) A person who, without reasonable cause, contravenes subsection (2) is guilty of an offence.

(4) The court in which a conviction for an offence under this section is recorded or affirmed may order that the person convicted shall remedy the breach of this section in respect of which that person was convicted.”.

Amendment of section 56 of Principal Act

11. Section 56 of the Principal Act is amended by the substitution of the following subsection for subsection (5):

“(5) Of the members of the Board—

- (a) one shall be a person nominated for such appointment by Insurance Ireland (or any successor of it), and
- (b) one shall be an employee of the Central Bank of Ireland nominated for such appointment by the Governor of the Central Bank of Ireland.”.

Amendment of section 57 of Principal Act**12.** Section 57 of the Principal Act is amended—

- (a) in subsection (6), by the substitution of “Subject to subsection (7), a member of the Board” for “A member of the Board”, and
- (b) by the insertion of the following subsections after subsection (6):
 - “(7) A person who is re-appointed to the Board in accordance with subsection (6) shall not hold office for periods the aggregate of which exceeds 10 years.
 - (8) Where a member of the Board is—
 - (a) nominated as a member of Seanad Éireann,
 - (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament,
 - (c) regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997 as having been elected to that Parliament, or
 - (d) elected or co-opted as a member of a local authority,he or she shall thereupon cease to be a member of the Board.
 - (9) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament or of a local authority shall, while he or she is so entitled or is such a member, be disqualified for membership of the Board.”.

Remittance by Board of moneys to Minister**13.** The Principal Act is amended by the insertion of the following section after section 74:

- “74A.(1) The Minister, with the consent of the Minister for Public Expenditure and Reform, may from time to time authorise the Board to retain a specified sum of money for the purposes of expenditure by the Board in the performance of its functions.
- (2) The sum specified for the purposes of subsection (1) shall be determined by the Minister having regard to the operational, capital and contingency costs of the Board.
 - (3) The Minister, with the consent of the Minister for Public Expenditure and Reform, may from time to time request the Board to remit to the Minister any moneys held by the Board in excess of those authorised to be retained under subsection (1).
 - (4) The Board shall comply with a request under subsection (3).

- (5) All moneys received by the Minister under this section shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Public Expenditure and Reform directs.”.

Amendment of section 79 of Principal Act**14.** Section 79 of the Principal Act is amended—

(a) in subsection (1)—

- (i) in paragraph (b), by the substitution of “address;” for “address; or”,
- (ii) in paragraph (c), by the substitution of “address;” for “address.”, and
- (iii) by the insertion of the following paragraphs after paragraph (c):

“(d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given or issued to, him or her in that manner; or

(e) through a document exchange service, in a case in which the person has given notice in writing to the person serving or giving the notice or document concerned of his or her consent to the notice or document (or notices or documents of a class to which the notice or document belongs) being served on, or given or issued to, him or her in that manner.”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) In this section, ‘document exchange service’ means provision of means, including the supply of premises specifically for that purpose and transportation by a third party, allowing self-delivery by mutual exchange of postal packets between persons subscribing to the service.”.

Short title, commencement and collective citation

- 15.** (1) This Act may be cited as the Personal Injuries Assessment Board (Amendment) Act 2019.
- (2) This Act shall come into operation on such day or days as the Minister for Business, Enterprise and Innovation may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.
- (3) The Personal Injuries Assessment Board Acts 2003 and 2007 and this Act may be cited together as the Personal Injuries Assessment Board Acts 2003 to 2019.