



**An Bille fán mBord um Réiteach Díobhálacha
Pearsanta, 2022**

Personal Injuries Resolution Board Bill 2022

*Meabhrán Míniúcháin
Explanatory Memorandum*



**AN BILLE FÁN MBORD UM RÉITEACH DÍOBHÁLACHA
PEARSANTA, 2022
PERSONAL INJURIES RESOLUTION BOARD BILL 2022**

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of the Bill is to amend the Personal Injuries Assessment Board Act 2003-2019 to facilitate an increase in the number of personal injury claims that may be resolved through the Board’s process and without recourse to litigation.

Encouraging more claimants and respondents to avail of the Board’s model through mediation and/or assessment should lead to cost savings in the claims environment and contribute to reductions in insurance premiums.

The Bill places an increased emphasis on the resolution of claims through an amended personal injuries framework which facilitates mediation and assessment as means of resolving personal injury claims. The Bill renames the Board as the Personal Injuries Resolution Board.

The Bill also contains several amendments to the Act, to enhance the role of the Board regarding promotion of its work; data and reporting; and measures to facilitate the prevention of fraud.

The outcome of a public consultation on the Personal Injuries Assessment Board Acts in 2021 informed the content of the Bill.

Provisions of the Bill

This Bill contains 23 sections.

Definitions

Section 1 provides for the definition of the “Principal Act” and for the “Minister”.

Change of name of Board

Section 2 provides for the change of name of the Personal Injuries Assessment Board to the Personal Injuries Resolution Board to reflect the new function of the Board to offer mediation as a means of resolving claims.

Amendment of section 11 of Principal Act

Section 3 sets out the application process to allow a claimant to make an application for mediation, assessment or both and the mandatory elements, including the requirement to supply a Personal Public Service Number or alternative identification, required in making that application. Failure to supply the required information as part of the application will result in the statute of limitations continuing to run while the claim is with the Board.

Amendment of section 13 of Principal Act

Section 4 provides for the notification by the Board of a claimant's application to the respondent and a request as to whether the respondent consents to mediation, assessment or both.

Amendment of section 14 of Principal Act

Section 5 provides for the procedures to be followed by the Board following a response or lack thereof from a respondent or respondents with regard to the request for their consent for mediation and/or assessment.

Making of statement referred to in section 14(1)(a) or 14(1)(c)(i) or omission to make statement referred to in section 14(1)(c)(ii) not an admission of liability

Section 6 provides that where a respondent consents to mediation and/or assessment of a relevant claim or is deemed to consent to assessment, that these are not considered to be an admission of liability with regard to the relevant claim.

Amendment of section 17 of Principal Act

Section 7 expands the types of claims that will be considered by the Board by removing the discretion for the Board not to make an assessment for claims of a wholly psychological nature or where a long-term prognosis is not yet available. The section also extends the discretions available to the Board regarding the making of an assessment to also include mediation.

Amendment of section 18 of Principal Act

Section 8 extends the provisions relating to presumption of capacity of both the claimant and the respondent with regard to the making of an assessment to also include mediation.

Mediation

Section 9 introduces a new Chapter 1A containing 6 sections (Sections 18A-18F) to the Principal Act setting out the provisions for mediation of claims. Section 18A sets out the definitions to be used in the Chapter. Section 18B details the mediation process. Section 18C outlines how a mediation is completed whether successful or unsuccessful. An unsuccessful mediation will move to assessment where a respondent has consented to same. Section 18D provides for a panel of mediators. Section 18E details requirements for a mediator to declare any potential conflict of interests and that a mediator is excluded from acting as an assessor on a claim which they have mediated. Section 18F provides that the Board may make rules regarding the procedures to be followed for mediation.

Amendment of section 19

Section 10 updates the reference in section 19 of the Principal Act following amendments to section 14 of the Principal Act to provide for mediation.

Amendment of section 22

Section 11 amends section 22 of the Principal Act to provide that the Board, with the consent of the Minister, may make regulations to impose charges. The section provides that where a respondent has failed to pay the relevant fee to the Board in the required timeframe that the Board can apply an additional administrative charge. It also provides that the respondent is liable to the Board for all charges applicable to them.

Amendment of section 38 of Principal Act

Section 12 sets out that where a monetary value has been agreed in mediation the Board will issue an order to pay. It also provides for an order to pay to include any outstanding charges payable to the Board by the respondent.

Amendment of section 49 of Principal Act

Section 13 sets out the procedure to be followed where a claimant withdraws consent previously given to the Board to retain a claim past the statutory time frames set out in Section 49 of the Principal Act.

Assessment of relevant claims where long term prognosis is awaited

Section 14 enables the Board to retain claims, where based on a medical report, a long-term prognosis will not be available under the 9-month statutory timeframe provided for under Section 49(2) of the Principal Act. It provides for up to an additional 2 years in addition to the 9 months for a long-term prognosis to become available.

Amendment of section 50 of Principal Act

Section 15 provides that the extended time allowed for a long-term prognosis to become available as provided for under *Section 14* will be included for the purposes of pausing the statute of limitations while claims are with the Board and for a period of 6 months after the Board issues an authorisation.

Amendment of section 51A of Principal Act

Section 16 sets out procedures for a claim that has left the Board following an assessment, that has been accepted by the respondent but rejected by the claimant and has proceeded to litigation. Where a claimant brings proceedings in such circumstances, no award of costs may be made in favour of the claimant. Section 16 also provides that the assessment value will be deemed to be an offer of tender of payment made by the defendant as of the date the respondent accepted or was deemed to have accepted the assessment. Where the court finds that the defendant was not in a position to pay the value of the offer of tender payment at the time this provision will not apply.

Amendment of section 54 of Principal Act

Section 17 provides for four new functions to be accorded to the Board: to facilitate the resolution of relevant claims through mediation; to collect and publish on its website information relating to personal injury claims including information concerning awards made under the Personal Injuries Guidelines; to conduct or commission research, analysis or studies on matters relating to the function of the Board and publish such findings as it considers appropriate; and to promote awareness of its role and the benefits of resolving claims through the Board.

Amendment of section 54A of Principal Act

Section 18 extends the requirement for certain persons to provide information to the Board to include the new functions of collecting and publishing information relating to personal injury claims including information concerning awards made under the Personal Injuries Guidelines; conducting or commissioning research, analysis or studies on matters relating to the function of the Board and publishing such findings as it considers appropriate.

Amendment of section 73 of Principal Act

Section 19 provides that the Board may report suspected offences to An Garda Síochána.

Board shall provide information requested by Minister

Section 20 provides that the Board shall provide the Minister with information about the performance of the Board's functions.

Offences: false or misleading information

Section 21 sets out that the provision of false or misleading information to the Board by a claimant, respondent or 3rd party is an offence.

Amendment of Freedom of Information Act 2014

Section 22 provides for the exclusion of the mediation process facilitated by the Board from the provisions of the Freedom of Information Act 2014. This is required as mediation is a confidential process.

Short title, commencement and collective citation

Section 23 provides the short title of the Bill, as well as the citation and makes provision for enactment by Statutory Instrument.

*An Roinn Fiontar, Trádála agus Fostaíochta,
Lúnasa, 2022.*