



S.I. No. 262 of 1996

SOCIAL WELFARE (SOCIAL WELFARE TRIBUNAL) REGULATIONS 1996

REVISED

Updated to 4 May 2023

This Revised Statutory Instrument is an administrative consolidation of the *Social Welfare (Social Welfare Tribunal) Regulations 1996*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023* (10/2023), enacted 2 May 2023, and all statutory instruments up to and including *Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 2) (Income Disregard) Regulations 2023* (S.I. No. 234 of 2023), made 4 May 2023, were considered in the preparation of this Revised Statutory Instrument.

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The Minister for Social Welfare, in exercise of the powers conferred on him by sections 4 (as amended by section 37 of the Social Welfare Act, 1996 (No. 7 of 1996)) and 276 of the Social Welfare (Consolidation) Act, 1993 (No. 27 of 1993), hereby makes the following Regulations:

Annotations

Modifications (not altering text):

- C1** Instrument continued in force (1.12.2005) by *Social Welfare Consolidation Act 2005* (26/2005), ss. 361(b) and 362(2), S.I. No. 923 of 2005.

Continuity of repealed enactments.

361.—The continuity of the operation of the law relating to the matters provided for in the repealed enactments shall not be affected by the substitution of this Act for those enactments, and—

...

- (b) so much of any enactment or document (including repealed enactments and enactments and documents passed or made after the commencement of this Act) as refers, whether expressly or by implication, to, or to things done or to be done under or for the purposes of, any provision of the repealed enactments shall, if and so far as the nature of the subject matter of the enactment or document permits, be read as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Act has effect, a reference to, or, as the case may be, to things done or deemed to be done or to be done under or for the purposes of, that corresponding provision.

Continuance of officers, instruments and documents.

362.— ...

(2) All instruments made and documents issued under the repealed enactments or any enactments repealed by the Social Welfare (Consolidation) Act 1993 and in force immediately before the commencement of this Act (other than the provisions of any instruments which are incorporated in this Act) shall continue in force as if made or issued under this Act.

Citation.

1. These Regulations may be cited as the Social Welfare (Social Welfare Tribunal) Regulations, 1996.

Interpretation. 2. In these Regulations unless the context otherwise requires—

"the applicant" means a person who intends to make an application for an adjudication pursuant to section 274 of the Principal Act;

"the Principal Act" means the Social Welfare (Consolidation) Act, 1993;

"the Tribunal" means the Social Welfare Tribunal.

Annotations

Editorial Notes:

- E1** *Social Welfare Consolidation Act 2005* (26/2005), s. 331 is the provision which corresponds to *Social Welfare (Consolidation) Act 1993* (27/1993), s. 274.

Revocation. 3. The Social Welfare (Social Welfare Tribunal) Regulations, 1982 (S.I. No. 309 of 1982) are hereby revoked.

Applications. 4. An applicant shall apply to the Secretary of the Tribunal on a form approved for that purpose by the Tribunal and the said form shall be accompanied by a statement of the facts and contentions on which the applicant intends to rely.

Prescribed time for making application. 5. (1) The time within which an application may be made shall be any time up to the expiration of 21 days after the receipt by the applicant of

(a) the Deciding Officer's decision, or

(b) where that decision is appealed under section 257 of the Principal Act, the Appeals Officer's decision disqualifying him under section 47(1) of the Principal Act for receiving F1[jobseeker's benefit] or under section 125(3) of the said Act for receiving F2[jobseeker's allowance],

provided that an application may, with the consent of the Tribunal, be accepted at any time.

(2) An applicant may withdraw an application by sending notice of withdrawal to the Secretary of the Tribunal.

Annotations

Amendments:

- F1** Substituted (5.10.2006) by *Social Welfare Law Reform and Pensions Act 2006* (5/2006), s. 4(1) and sch. 1 item 6, S.I. No. 334 of 2006.

- F2** Substituted (4.10.2006) by *Social Welfare Law Reform and Pensions Act 2006* (5/2006), s. 4(1) and sch. 1 item 4, S.I. No. 334 of 2006.

Editorial Notes:

- E2** *Social Welfare Consolidation Act 2005* (26/2005), ss. 311, 68(1) and 147(2) are the provisions which correspond to *Social Welfare (Consolidation) Act 1993* (27/1993), ss. 257, 47(1) and 125(3).

Notification to employer and Minister on receipt of application.

6. (1) On receipt of an application for an adjudication, the Secretary of the Tribunal shall forward to the employer concerned, a copy of the statement submitted by the applicant in accordance with *article 4*.

(2) The Secretary of the Tribunal shall notify the Minister that an application for adjudication has been received from the applicant.

Annotations

Editorial Notes:

E3 *Social Welfare Consolidation Act 2005* (26/2005), ss. 311 and 312 are the provisions which correspond to *Social Welfare (Consolidation) Act 1993* (27/1993), ss. 257 and 257A.

Notice of appearance by employer.

7. (1) An employer shall within 14 days of receiving a copy of the statement submitted by the applicant in accordance with *article 4* enter an appearance to the proceedings by sending to the Secretary of the Tribunal a statement showing to what extent the facts and contentions advanced by the applicant are admitted or disputed.

(2) An employer may apply to the Tribunal within the period mentioned in *sub-article (1)* for an extension of the time in which to enter an appearance and the Chairman of the Tribunal will decide what is a reasonable period within which an appearance may be entered and in the absence of an appearance within that period may proceed with the application.

(3) When the Secretary of the Tribunal receives a notice of appearance from the employer he shall forthwith send a copy thereof to the applicant.

Hearing by Tribunal.

8. (1) The Chairman of the Tribunal shall fix the date, time and place for the hearing of an application by the Tribunal and notice thereof shall be given by the Secretary of the Tribunal to all persons appearing to the Chairman to be interested.

(2) Parties summoned to attend a hearing of the Tribunal may appear and be heard in person or may be represented by counsel or solicitor or by a representative of a trade union or of an employers' association or, with the leave of the Tribunal, by any other person.

Procedure to be followed at hearing.

9. A party to an application may—

- (a) make an opening statement,
- (b) call witnesses,
- (c) cross-examine any witnesses called by any other party,
- (d) give evidence on his own behalf, and
- (e) address the Tribunal at the close of the evidence.

Adjournment or postponement.

10. The Tribunal may postpone or adjourn the hearing from time to time.

Written evidence.

11. The Tribunal may admit any duly authenticated written statement as *prima facie* evidence of any fact, whenever it thinks it just and proper so to do.

Failure to attend at hearing.

12. If, after notice of a hearing has been duly given, any of the parties fails to appear at the hearing, the Tribunal may decide the application or may adjourn the hearing to a later date provided that before deciding the application the Tribunal shall consider all the evidence before it at the time of the hearing.

Decisions by tribunal.

13. (1) A decision of the Tribunal may be taken by a majority of the members thereof.

(2) A decision of the Tribunal shall be recorded in a document signed by the Chairman and sealed with the seal of the Tribunal.

(3) A decision of the Tribunal shall be entered in a Register of Adjudications and a copy of the decision shall be sent to the Minister, to the applicant, to the employer and to any other interested person.

Notice in writing. 14. (1) Any notice required by these Regulations shall be in writing, and all notices and documents required or authorised by these Regulations to be sent or given to any person may be deemed to be duly sent if sent by prepaid registered post and directed—

- (a) in the case of the Minister, to the head offices of the Department of Social Welfare,
- (b) in the case of the Secretary of the Social Welfare Tribunal, to the office of the Secretary of the Tribunal,
- (c) in the case of an applicant, to the address given by him in the notice of application,
- (d) in the case of any other person, to his usual or last-known address or his place of business,
- (e) in the case of a body corporate, to its registered office.

(2) A notice or document if sent or given to the authorised representative of a person shall be deemed to have been sent or given to that person.

(3) A party to an application may at any time by notice to the Tribunal and to any other party or parties concerned change his address for service under these Regulations.

Annotations

Modifications (not altering text):

C2 Reference to “Department of Social Welfare” construed (21.10.2020) as reference to the Department of Social Protection by *Employment Affairs and Social Protection (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 447 of 2020), arts. 2 to 4, in effect as per art. 1(2). Intervening titles of department dealt with in E-Notes below.

2. The name of the Department of State, the present name of which is, in the Irish language, an Roinn Gnóthaí Fostaíochta agus Coimirce Sóisialaí and, in the English language, the Department of Employment Affairs and Social Protection, is altered, in the Irish language, to that of an Roinn Coimirce Sóisialaí and, in the English language, to that of the Department of Social Protection.

3. The title of the Minister having charge of the Department of State, whose present title is, in the Irish language, an tAire Gnóthaí Fostaíochta agus Coimirce Sóisialaí and, in the English language, the Minister for Employment Affairs and Social Protection, is altered, in the Irish language, to that of an tAire Coimirce Sóisialaí and, in the English language, to that of the Minister for Social Protection.

4. In any enactment or any instrument made under an enactment—

- (a) references to the Department of Employment Affairs and Social Protection shall be construed as references to the Department of Social Protection;
- (b) references to the Minister for Employment Affairs and Social Protection shall be construed as references to the Minister for Social Protection.

Editorial Notes:

- E4** Previous affecting provision: reference to “Department of Social Welfare” construed (2.09.2017) as reference to the Department of Employment Affairs and Social Protection by *Social Protection (Alteration of Name of Department and Title of Minister) Order 2017* (S.I. No. 366 of 2017), arts. 2 to 4, in effect as per art. 1(2); altered (21.10.2020) as per C-Note above.
- E5** Previous affecting provision: reference to “Department of Social Welfare” construed (2.05.2010) as reference to the Department of Social Protection by *Social Protection (Alteration of Name of Department and Title of Minister) Order 2017* (S.I. No. 186 of 2010), arts. 2 to 4, in effect as per art. 1(2); altered (2.09.2017) as per E-Note above.
- E6** Previous affecting provision: reference to “Department of Social Welfare” construed (19.06.2002) as reference to the Department of Social and Family Affairs by *Social, Community and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 310 of 2002), arts. 2 to 4, in effect as per art. 1(2); altered (2.05.2010) as per E-Note above.
- E7** Previous affecting provision: reference to Department of Social Welfare construed (12.07.1997) as reference to the Department of Social, Community and Family Affairs by *Social, Community and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 307 of 1997), arts. 2 to 4, in effect as per art. 1(2); altered (19.06.2002) as per E-Note above.

Costs.

15. The Tribunal shall not award costs against any party to an application.

Expenses.

16. (1) The Tribunal may award to a person appearing before it a sum in respect of travelling expenses and subsistence allowances in accordance with such scale as the Minister, with the consent of the Minister for the Finance, may from time to time determine.

(2) The Tribunal may, at its discretion award to a person appearing before it and whose attendance is deemed essential by the Tribunal such sum in respect of expenses for loss of remunerative time as it considers reasonable.

(3) The Tribunal shall not make an award under *sub-articles (1) and (2)* of this article in respect of the attendance before the Tribunal of

(a) applicants or employers,

(b) any of the following persons appearing in a representative capacity — counsel, solicitors, officials of a trade union, officials of an employer's association, or any other person appearing in a representative capacity.

(4) Any sums awarded under *sub-articles (1) and (2)* of this article shall be paid by the Minister.

Official seal.

17. (1) The Tribunal shall have an official seal which shall be judicially noticed.

(2) When affixed to any document the official seal of the Tribunal shall be authenticated by the signature of the Chairman of the Tribunal or by the Secretary or such officer of the Tribunal as is authorised for that purpose by the Chairman.

(3) Every document issued by the Tribunal and sealed with the official seal of the Tribunal shall be received in evidence without further proof.

Failure to comply with regulations-consideration of application.

18. The Tribunal may consider and decide any application duly made to it notwithstanding the failure or neglect of any person to comply with any requirement of these Regulations.

Provision of additional information.

19. The Tribunal may require any party to an application to furnish in writing further particulars with regard to the facts and contentions contained in either the application or the notice of appearance and when the required particulars have been received by the Secretary of the Tribunal he shall furnish to any other party to the application a copy of the particulars provided.

Review of decision of tribunal.

20. (1) An application under section 275(c) of the Principal Act for a review of a decision given by the Tribunal shall be made by giving notice to the Secretary of the Tribunal, stating the grounds on which the application for review is based.

(2) The Secretary of the Tribunal shall forward to all persons interested a copy of such application for review and invite them to submit observations on the application.

(3) After the expiration of 21 days from the date of the issue of notification to persons interested, the Chairman of the Tribunal shall arrange for a meeting of the Tribunal.

(4) If the Tribunal is unanimously of the opinion that the review is such that it can be properly determined without a hearing, it may determine the review summarily.

(5) If, in the opinion of the Tribunal, a hearing is required a hearing shall be fixed and the provisions of these Regulations shall apply as if the review were an adjudication.

Annotations**Editorial Notes:**

E8 *Social Welfare Consolidation Act 2005* (26/2005), ss. 332(1)(c) and (2) are the provisions which corresponds to *Social Welfare (Consolidation) Act 1993* (27/1993), s. 275(c).

Representative of Minister.

21. For any of the purposes of the Principal Act and of these Regulations, the Minister may be represented by a person appointed by him.



GIVEN under the Official Seal of the Minister for Social Welfare this 30th day of August, 1996

PROINSIAS DE ROSSA

Minister for Social Welfare.

EXPLANATORY NOTE

These Regulations provide for a technical amendment to the time limit for making an application for an adjudication to the Social Welfare Tribunal arising from the amendment made in the Social Welfare Act, 1996 under which a person involved in a trade dispute may appeal a disqualification for receipt of Unemployment Assistance or Unemployment Benefit without first having to appeal the deciding officer's decision to the Social Welfare Appeals Office.



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About this Statutory Instrument

This Revised Statutory Instrument presents the text of the instrument as it has been amended, and preserves the format in which it was made.

Related legislation

This instrument is not collectively cited with any other instrument.

Annotations

This Revised Statutory Instrument is annotated and includes textual and non-textual amendments and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this statutory instrument, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1987, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Social Welfare Law Reform and Pensions Act 2006 (5/2006)*

All Acts up to and including *Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023 (10/2023)*, enacted 2 May 2023, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Employment Affairs and Social Protection (Alteration of Name of Department and Title of Minister) Order 2020* (S.I. No. 447 of 2020)
- *Social Protection (Alteration of Name of Department and Title of Minister) Order 2017* (S.I. No. 366 of 2017)
- *Social and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2010* (S.I. No. 186 of 2010)
- *Social, Community and Family Affairs (Alteration of Name of Department and Title of Minister) Order 2002* (S.I. No. 310 of 2002)
- *Social Welfare (Alteration of Name of Department and Title of Minister) Order 1997* (S.I. No. 307 of 1997)

All statutory instruments up to and including *Social Welfare (Consolidated Claims, Payments and Control) (Amendment) (No. 2) (Income Disregard) Regulations 2023* (S.I. No. 234 of 2023), made 4 May 2023, were considered in the preparation of this revision.