



STATUTORY INSTRUMENTS.

S.I. No. 744 of 2024

SOCIAL WELFARE (APPEALS) REGULATIONS 2024

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I, HEATHER HUMPHREYS, Minister for Social Protection, in exercise of the powers conferred on me by sections 4 (amended by section 14 and reference 1 of the Schedule to the Social Welfare (Miscellaneous Provisions) Act 2024 (No. 24 of 2024)), and 310, 311 and 330(b) of the Social Welfare Consolidation Act 2005 (No. 26 of 2005), hereby make the following Regulations:

PART I General

Citation, construction and commencement

1. (1) These Regulations may be cited as the Social Welfare (Appeals) Regulations 2024.

(2) These Regulations will come into operation on 28 April 2025.

Interpretation

2. In these Regulations, any reference to a section refers, unless otherwise specified, to a section of the Principal Act.

Definitions

3. In these Regulations—

“designated person” has the meaning assigned to it in section 2(1);

“hearing” means oral hearing;

“Office of the Chief Appeals Officer” means all functions, staff and facilities that report to and are under the direction of the Chief Appeals Officer including Appeals Officers, Deputy Chief Appeals Officers, and other staff necessary to the performance of Chapter 2 of Part 10 of the Social Welfare Consolidation Act 2005 (No. 26 of 2005) and these Regulations;

“the Principal Act” means the Social Welfare Consolidation Act 2005.

Revocation of Regulations

4. The Social Welfare (Appeals) Regulations, 1998 (S.I. No. 108 of 1998) and Social Welfare (Appeals) (Amendment) Regulations 2011 (S.I. No. 505 of 2011) are hereby revoked.

PART II Functions of Chief Appeals Officer

Functions of Chief Appeals Officer

5. The Chief Appeals Officer shall be responsible for:

- (1) the assignment amongst Appeals Officers of references to them under section 311;
- (2) directing the appeals function and specifying procedures and policies to be followed by Appeals Officers and other staff working in the appeals function consistent with the provisions of the Principal Act and these Regulations;
- (3) nominating an Appeals Officer, including a Deputy Chief Appeals Officer, to consider revising a decision of an Appeals Officer in accordance with section 317;
- (4) nominating an Appeals Officer, including a Deputy Chief Appeals Officer, to review and submit to him or her a recommendation in respect of a decision of an Appeals Officer in accordance with section 318;
- (5) ensuring the application of effective systems of quality assurance with regard to the operation of the appeals function with specific regard to timeliness and consistency in the determination of appeals;
- (6) arranging for the preparation and issuing of guidance to the Minister, on the appropriate interpretation and application of statutory provisions with respect to decisions made in accordance with section 300;
- (7) providing advice and guidance, at the request of any officer of the Minister at Principal Officer level or higher, with respect to the interpretation of statutory provisions applying to any decision or class of decisions;
- (8) reviewing and reporting the activities and performance of the appeals function, in accordance with Section 308.

Reference by a Deciding Officer to Appeals Officer

- 6. (1) A reference to an Appeals Officer by a Deciding Officer under section 303 shall be in the form approved by the Chief Appeals Officer or in any other such manner as the Chief Appeals Officer may accept as sufficient in the circumstances.
- (2) Where a reference to an Appeals Officer is made by a Deciding Officer under section 303, the manner for dealing with it shall, with any necessary modifications, be the same as if the reference were an appeal made under section 311.

PART III Procedure on Appeal

Submission of appeal and information to be supplied by appellant

7. (1) Any person (in these Regulations referred to as the appellant) who is dissatisfied with the decision of a Deciding Officer or the determination of a Designated Person and who wishes to appeal against such decision or determination, as the case may be, shall give notice in that behalf to the Chief Appeals Officer, in the form approved by the Chief Appeals Officer.

(2) The time within which an appeal may be made shall be any time up to the expiration of 60 days from the date of the notification of the decision of a Deciding Officer or determination of a Designated Person, as the case may be, to the appellant.

(3) Notwithstanding sub-article (2), a notice of appeal received after the expiration of 60 days may be accepted, at the sole discretion of the Chief Appeals Officer, if he or she is satisfied that there is reasonable cause for the delay in submitting the appeal and, in addition, that there are reasonable, non-trivial, *prima facie* grounds for appeal. Appeals will not be accepted by the Chief Appeals Officer any time after the expiry of 180 days from the date of the notification of the decision of a Deciding Officer or determination of a Designated Person, as the case may be, to the appellant.

(4) Subject to article 10(1)(b) of these Regulations, the notice of appeal shall contain a statement of the facts and contentions upon which the appellant intends to rely. This shall include the details of the original claim that was submitted to the Minister together with grounds of appeal and any additional information that the appellant considers is relevant to the consideration of his or her appeal.

(5) The appellant shall send to the Chief Appeals Officer, along with the notice of appeal, such documentary evidence as the appellant wishes to submit in support of their appeal.

(6) Any person wishing to withdraw an appeal may do so by sending a notice to that effect to the Chief Appeals Officer.

Notification of appeal to Minister and information to be supplied.

8. (1) In the case of an appeal against the decision of a Deciding Officer or the determination of a Designated Person under section 311, the Chief Appeals Officer shall, within 14 days of its receipt, cause notice of the appeal together with the grounds submitted for the appeal to be sent to the Minister who may revise the original decision in favour of the appellant and advise the Chief Appeals Officer accordingly as soon as may be but not later than 21 days thereafter. If the decision is not revised the Minister shall furnish or make available to the Chief Appeals Officer all claim forms and relevant documents, including reports of any assessors or inspectors considered by the Deciding Officer or Designated Person, when making the decision that is being appealed.

(2) The date fixed for furnishing the information requested may be extended on application, subject to a valid reason being submitted by the Minister, and at the discretion of the Chief Appeals Officer. An application for

extension shall only be considered if it is received within 18 days of the date of notice.

(3) Where the Minister does not provide the documentation and information within 21 days from the date of notice by the Chief Appeals Officer (or such date as may be specified under sub-article (2), the Chief Appeals Officer shall arrange for the appeal to be determined on the basis of the information provided by the appellant and such further information as may be provided under article 10 of these Regulations.

Notice of appeal to other persons

9. The Chief Appeals Officer shall cause notice that an appeal has been submitted to be furnished or made available to any other person appearing to the Chief Appeals Officer to be concerned.

Further information to be supplied and amendment of pleadings

10. (1) The Appeals Officer to whom an appeal is referred may, in considering the appeal—

- (a) require the appellant, or any other person appearing to the Appeals Officer to be concerned, to furnish to them, in writing, further particulars regarding the appeal,
 - (b) allow the amendment of any notice of appeal, statement, or particulars at any stage of the proceedings, and
 - (c) fix the return date for furnishing any such statement and this return date to be no more than 21 days from the notice requesting further particulars upon such terms as they may think fit.
- (2) (a) Notwithstanding sub-article (1)(c) of this article, and subject to paragraphs (b) and (c), the date fixed for furnishing further particulars may be extended at the discretion of the Appeals Officer.
- (b) An application for extension shall only be considered if it is received at least 3 days prior to the return date specified in the notice for further particulars from the person to whom the notice was directed.
 - (c) In exercising their discretion, the Appeals Officer shall consider if the reason sought for the extension is in all the circumstances reasonable.
- (3) Where the notice for further particulars was directed to the appellant (or a person representing the appellant) and a response is not received by a date 7 days after the designated return date, the appeal will be deemed to be withdrawn and all parties to the appeal shall be notified accordingly.
- (4) Where the notice for further particulars was directed to a person other than the appellant (or a person representing the appellant) and a response is not

received by the designated return date, the Appeals Officer shall proceed to determine the appeal in the absence of the information requested.

Determination of appeals

11. An appeal, in accordance with section 311(3), shall be determined *de novo* by an Appeals Officer as if the decision being appealed was being decided for the first time. The appeal shall be decided on the basis of the information submitted by or on behalf of the appellant, any other party appearing to the Appeals Officer to be directly affected by the decision that they shall make, and the Minister (which shall include reports of inspectors and assessors working on behalf of the Minister), and taking due account of any opinion provided by any assessor who may be assigned, in accordance with section 309.

Decision involving an assessment of capacity to work or requirements for care

12. (1) In any appeal where the question to be decided relates to a person's capacity to work under sections 40, 46A, 74 and 118, or to whether or not they are substantially restricted in undertaking employment under section 210, or to a relevant person's requirement for full-time care and attention under sections 100, 179 and 186C, the Appeals Officer shall, if they are not themselves a registered medical practitioner, have regard to the opinion of a medical assessor to assist them in determining any question that may arise from consideration of any new medical information or opinion provided as part of the appeal.

(2) If an Appeals Officer, required in accordance with sub-article (1), to seek the advice of a medical assessor, makes a decision contrary to the opinion of the medical assessor, they shall advise and set out in writing to the appellant, and any other parties concerned, the rationale for their making a determination contrary to the advice of the medical assessor.

Procedure for determination of appeals

13. Where the written information, including grounds for appeal and supporting material or other documentation and supplementary material requested by, and available to, the Appeals Officer, is, in their view, sufficient to enable an informed decision, the Appeals Officer shall set out their rationale accordingly, and determine the appeal based on this information and without recourse to a hearing.

Hearings

14. Where an appellant, or any other party who stands to be directly affected by the appeal decision requests a hearing of the appeal (such request to be provided in writing), the Appeals Officer shall consider this request and, if they decide not to proceed with a hearing, the Appeals Officer shall advise the appellant, and other parties concerned setting out the reasons why they consider a hearing of the appeal to be unnecessary.

Notice where hearing required

15. Where, either on their own volition or upon receipt of a request by a party to the appeal, an Appeals Officer determines that a hearing is required they shall, having consulted with a Deputy Chief Appeals Officer, and as soon as may be, fix a date and place for the hearing, and give reasonable notice of the said hearing to the appellant, the Minister and any other person appearing to the Appeals Officer to be concerned in the appeal.

Persons who may appear at hearing

16. (1) The appellant shall ordinarily attend at the hearing in person or remotely by video link or by some other electronic means which as may be specified by the Appeals Officer. They may be accompanied by a member of their family, or, with the consent of the Appeals Officer, any other person.

(2) The appellant may, with the consent of the Appeals Officer, be represented at the hearing by any other person.

(3) Any officer designated by the Minister may, on giving written notice, represent the Minister at the hearing.

(4) Any other person, appearing to the Appeals Officer to be concerned, may, on being given written notice, also attend at the hearing.

Failure to attend hearing

17. Where, after notice of a hearing has been duly given, any of the parties so notified fails to attend at the hearing, such order or decision may be made, and such steps may be taken with a view to the determination of, or in reference to, the appeal as the Appeals Officer considers appropriate, including determining the appeal without an oral hearing.

Failure to comply with Regulations

18. An Appeals Officer may decide any question duly referred to them, notwithstanding the failure or neglect of any person to comply with any requirement of these Regulations.

Procedure at hearing

19. (1) The procedure at the hearing shall be as determined by an Appeals Officer on the day of the hearing.

(2) An Appeals Officer shall make best efforts to expedite the determination of an appeal and postponements, or adjournments of hearings shall only be granted at the sole discretion of the Appeals Officer where they believe there is a valid and reasonable cause.

(3) An Appeals Officer may admit any duly authenticated written statement or other material as *prima facie* evidence of any fact or facts, in any case, in which they think it appropriate.

Decision of Appeals Officer

20. (1) The decision of an Appeals Officer, together with the reasons for this decision, shall be recorded and notified, in accordance with such procedures as may be specified from time to time by the Chief Appeals Officer, to all parties to the appeal. Notices shall issue no later than 21 working days after the appeal is determined.

(2) Decisions of Appeals Officers will, as appropriate, be given practical effect in accordance with such procedures as may be specified from time to time by the Minister.

Method of sending documents

21. Any notice or other document required or authorised to be sent to any person for the purpose of these Regulations shall be deemed to be duly sent, if sent by post addressed to them at their ordinary address or at their place of business or by electronic means.



GIVEN under my Official Seal,
19 December, 2024.

HEATHER HUMPHREYS,
Minister for Social Protection.

EXPLANATORY NOTE

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

These Regulations prescribe the functions of the Chief Appeals Officer and set out the procedures to be followed in social welfare appeals.

These Regulations replace the Social Welfare (Appeals) Regulations, 1998 (S.I. No. 108 of 1998) and the Social Welfare (Appeals) (Amendment) Regulations 2011 (S.I. No. 505 of 2011) both of which are revoked.

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