



Pre-legislative scrutiny of the Personal Injuries Resolution Board Bill 2022

Opening Statement

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I thank the Chair and the Joint Committee for the opportunity to discuss the General Scheme of the Personal Injuries Resolution Board Bill 2022. My colleagues and I welcome the opportunity to contribute to the Committee's scrutiny of the Scheme and to assist in any way we can.

The General Scheme progresses commitments in the Programme for Government and the Action Plan for Insurance Reform to enhance and reform the Personal Injuries Assessment Board (PIAB).

Under the Personal Injuries Assessment Board Act 2003-2019, the Board assesses claims for compensation arising from personal injuries following road traffic, workplace, or public liability accidents. The Board is not a court - it doesn't make judgement on the issue of liability but assesses claims with reference to the Personal Injuries Guidelines. The Board provides a service which assesses claims in a timely and cost effective way which benefits both claimants and respondents.

There were approximately 21,000 applications for assessment in 2021. Successive reports on the National Claims Information Database by the Central Bank highlight the savings in both cost and time of settling through the Board. The most recent report published in November '21 finds that legal costs associated with settling motor claims through litigation were €16,064 compared to legal costs under the Board of only €841. The time taken to resolve claims through litigation is 4.2 years while claims settled through the Board took 2.3 years.

The policy objective of the General Scheme is to amend the legislation to facilitate an increase in the number of personal injury claims that may be resolved through the Board. Encouraging greater use of PIAB will deliver cost savings in the personal injury claims environment and together with the implementation of the Action Plan for Insurance Reform will contribute to reductions in insurance premiums.

The General Scheme contains 7 Chapters and 27 Heads of Bill. Given the time limitation, I will summarise the key heads.

Chapter 1 provides standard provisions for the short title of the Bill, commencement, and interpretation.

Chapter 2 provides that claimants provide their PPSN to the Board when making an application. This is intended to assist the prevention of fraud and identity theft and ensure accuracy in relation to payment.

Chapter 3 provides for mediation which will be a new function for the Board. Mediation facilitated by the Board will be a confidential and voluntary process between parties. It is intended to facilitate an increase in the number of claims which can be settled without recourse to litigation which is more expensive and takes longer. Mediation has been used by the Residential Tenancies Board, the Workplace Relations Commission and the Financial Services and Pensions Ombudsman as a means of parties to come to an agreed resolution. The heads are modelled on existing legislation in respect of these bodies.

An agreement reached in mediation is binding on the parties. Where both parties agree, the Board will issue an order to pay and this has the same standing as if it were a judgement of court, with the result that the personal injury claim is settled. It is not open to either party to reopen the personal injury claim following a successful mediation. Any failure to fulfil the order to pay can be pursued as a debt recovery case.

Mediation will not affect the timeline for the assessment of a claim. The Board will still be obliged to assess claims within nine months of the respondent's consent to assessment.

Chapter 4 contains amendments to some discretionary powers provided in section 17 of the Personal Injuries Assessment Board Act. Heads 15 and 16 will allow the Board to assess injuries of a psychological nature and to retain cases where, based on the medical evidence, the prognosis cannot be determined within the statutory timelines. The Board has indicated these amendments could facilitate a 15-20% increase in the number of claims resolved through the Board.

Chapter 5 deals with fee-making powers. The Board is funded through fees for its services, largely levied on insurance companies. As the Chief Executive is accountable to the Committee of Public Accounts, it is considered appropriate that the Board be empowered to propose and impose fees, albeit with the consent of the Minister.

Heads 20 and 21 set out that the Board may apply an additional charge on a respondent who does not pay the respondent fee and for recovery of late payments. These heads are intended to encourage compliance with the Act.

Chapter 6 and head 22 amend the Act to provide that where a respondent accepts the Board's assessment, but a claimant rejects it and the case proceeds to Court and if the Court award does not exceed the Board's assessment, then the Court will hold the claimant liable for the respondent's costs. It provides that this will be the default position unless the court determines that holding this position would result in an injustice. This is intended to enhance the Board's principal function which is to assess personal injury claims without the need for litigation and its associated costs.

Chapter 7 proposes a number of new functions for the Board. It enables the Board to collect and publish information relating to personal injury claims including information under the Personal Injuries Guidelines. It also enables the Board to conduct and commission research and to raise awareness and communicate the benefits of its services.

Head 27 provides that the Board may disclose information to any member of the Garda Síochána if that information may relate to the commission of an offence other than an offence under the Act.

Finally, as the General Scheme proposes to place an increased emphasis on the resolution of claims through an amended personal injuries framework which includes, it is proposed to rename the Board as the Personal Injuries *Resolution* Board.

My colleagues and I are happy to discuss the Scheme in more detail with the committee.

Thank you Chair.

Ends