

Residential Institutions Redress Act 2002 (Miscellaneous Provisions) Regulations 2002

I, Noel Dempsey, Minister for Education and Science in exercise of the powers conferred on me by sections 10(5)(b), 11(8) and 11(13) of the Residential Institutions Redress Act 2002 (No. 13 of 2002) hereby make the following regulations:

PART 1

Miscellaneous and General

1. These Regulations may be cited as the Residential Institutions Redress Act 2002 (Miscellaneous Provisions) Regulations 2002.

2. (1) In these Regulations, unless the context otherwise requires-

“Act” means the Residential Institutions Redress Act 2002 (No. 13 of 2002);

“applicant” has the meaning assigned to it by the Act;

“institution” has the meaning assigned to it by the Act;

“named relevant person” means a person who is referred to in paragraph (a) of the definition of “relevant person” in section 1(1) of the Act;

“specified relevant person” means a person who is referred to in paragraph (b) of the definition of “relevant person” in section 1(1) of the Act.

(2) In these Regulations –

- (a) a reference to a Regulation or a Part is a reference to a Regulation or Part of these Regulations unless it is indicated that reference to some other enactment is intended,
- (b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and
- (c) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactments.

3. The Board may extend a period of time specified in these Regulations.

PART 2

Written evidence of applicant

4. (1) An applicant who provides a written statement of evidence, as provided by section 10(5)(b) of the Act, shall provide the evidence required for each of the matters specified in paragraphs (a) to (d) of section 10(4) of the Act-

- (a) in typed form or, subject to paragraph (2), in legible handwritten form, and
- (b) in one or more documents.

(2) Where an applicant provides a written statement in handwritten form he or she shall ensure that such statement is legible.

(3) Where the Board is of the opinion that a statement of evidence that is submitted in handwritten form is not legible and as a consequence the Board cannot give the appropriate consideration to the application concerned-

- (a) the Board shall inform the applicant concerned of such opinion, and
- (b) the applicant concerned shall provide the Board, as soon as practicable, with a statement of the evidence in typed form or in handwritten form that is legible.

PART 3

Notice to and provision of evidence by named relevant person and specified relevant person

5. (1) The Board may, for the purposes of section 11(8), issue a notice to a specified relevant person or any public body which in the opinion of the Board is appropriate requesting information-

- (a) as to whether the named relevant person is still living, and
- (b) if such named relevant person is still living, the current address of such named relevant person.

(2) A specified relevant person or a public body to which a notice under paragraph (1) has been issued shall furnish such information concerning the named relevant person that is within its possession, custody or control to the Board within 21 days of receipt of such notice.

6. (1) Where an appropriate public body or a specified relevant person submits a written statement that the named relevant person has died or that the whereabouts of such named relevant person is unknown to such public body or specified relevant person the Board may make a determination that the named relevant person cannot be contacted by the Board for the purposes of the Act.

(2) Where an appropriate public body or a specified relevant person does not furnish the information sought under Regulation 5(1) to the Board within 21 days of receipt of the notice referred to in Regulation 5(1) the Board may make a determination that the named relevant person cannot be contacted by the Board for the purposes of the Act.

7. (1) The representatives of an institution shall-

- (a) designate a person concerned with the system of management, administration, operation, supervision, inspection and regulation of that institution who shall be the specified relevant person for that institution for the purposes of the Act and these Regulations, and
- (b) notify the Board in writing not later than 31 January 2003 of the name and address of the person designated in accordance with subparagraph (a).

(2) The Board shall notify in writing by pre-paid registered post each institution or the representatives of each institution of the requirements of paragraph (1).

(3) Where the Board, having notified each institution or the representatives of each institution in accordance with paragraph (2), does not receive the notification of the name and address of the specified relevant person as required under paragraph (1)(b), the Board may determine that such specified relevant person cannot be contacted by it for the purposes of the Act.

(4) In these Regulations “representatives” means a person who is or was concerned with the system of management of the institution concerned.

8. (1) The Board shall, as soon as may be practicable following receipt of an application, by notice in writing inform the named relevant person and the specified relevant person or either of them of the receipt by the Board of an application in which the named relevant person and specified relevant person or either of them is referred to and the notice shall include-

- (a) the name and address of the applicant,
- (b) the name and address of the institution in which the applicant was resident,
- (c) the period of residence concerned,
- (d) the name of any named relevant person referred to in the application, and
- (e) an invitation to such named relevant person and the specified relevant person or either of them to provide the Board with any evidence in writing concerning such application as such named relevant person and specified relevant person or either of them considers appropriate.

(2) The issue of the notice referred to in paragraph (1) to a named relevant person at his or her last known address by pre-paid registered post shall be treated as sufficient service of the notice for the purposes of these Regulations and of the Act.

(3) The named relevant person and the specified relevant person or either of them shall, following a request made in writing to the Board within 14 days of receipt of the notice referred to in paragraph (1), be entitled to receive a copy of the application form for the application concerned but shall not, unless the Board considers that it is in the interests of justice, be entitled to receive the following-

- (a) such medical reports submitted by the applicant to the Board that the Board considers appropriate,
- (b) the address of the applicant, or
- (c) the photograph affixed to the application form.

(4) A named relevant person and a specified relevant person, or either of them, who wishes to provide the Board with written evidence as provided for in paragraph (1)(e) shall-

- (a) inform the Board by notice in writing within 14 days of the date of receipt of the application form as referred to in paragraph (2) of the intention to provide such written evidence, and
- (b) submit such written evidence to the Board within one month of the date of the notice referred to in subparagraph (a).

(5) Where a named relevant person and specified relevant person or either of them-

- (a) submits written evidence in accordance with paragraph (3), and
- (b) makes an application to the Board-
 - (i) to give oral evidence in accordance with section 11(8)(b), or
 - (ii) for consent, in accordance with section 11(8)(c), to cross-examine the applicant or other person, or
 - (iii) to give oral evidence in accordance with section 11(8)(b) and for consent, in accordance with section 11(8)(c), to cross-examine the applicant or other person,

the Board shall, when considering such application have regard to the written evidence submitted in accordance with paragraph (3) and the named relevant person and the specified relevant person or either of them shall not, unless the Board considers it is in the interests of justice to do so, be permitted to give oral evidence to the Board in respect of the application or to cross-examine the applicant or other person on matters or issues not detailed in such written evidence.

(6) Where a named relevant person and specified relevant person or either of them makes a request, in accordance with section 11(9) of the Act, to the Review Committee, such named relevant person and specified relevant person or either of them shall-

- (a) submit such request in writing within 14 days of the date of such refusal of the Board under section 11(8), and
- (b) on the date of the making of such request, submit a copy of such request to the Board.

9. Where a named relevant person and specified relevant person or either of them submits evidence to the Board in accordance with Regulation 8 the Board shall provide the applicant concerned with a copy of such evidence as soon as is practicable.

PART 4

Giving evidence generally

10. Subject to sections 5(1)(d), 10(5) and 10(15) of the Act and these Regulations, the Board may determine the manner in which evidence is given to the Board concerning any matter arising from an application under the Act or the exercise of its functions under the Act.

PART 5

Service of notices and documents

11. (1) An application under the Act shall be served on the Board by-

- (a) sending the application to the Board by registered pre-paid post addressed to the office of the Board, or
- (b) by delivering the application to the office of the Board.

(2) For the purposes of section 8 of the Act, an applicant shall be deemed to have made an application to the Board on the date on which the application is received at the office of the Board.

(3) The receipt by the Board of an application that is served in accordance with paragraph (1)(a) shall be deemed to be the day on which it would have been delivered in the ordinary course of post.

(4) Service of an application or any other notice or document may be proved by a certificate of posting or by an entry in the records of the Board.

(5) Save where otherwise expressly provided for by regulations under the Act, any document to be served by or on behalf of the Board may be served on an applicant or any other person by ordinary pre-paid post.

(6) Where an applicant is represented by a solicitor any document to be served by or on behalf of the Board on such applicant shall be served on the solicitor on record for such applicant at the address for service provided for in such application.

(7) Where an applicant who is represented by a solicitor changes his or her solicitor on record or ceases to be represented by such solicitor-

- (a) the applicant concerned shall-
 - (i) immediately notify the Board in writing by registered pre-paid post of the change or cessation as the case may be, and
 - (ii) provide the Board with the address for service of documents or, if the applicant is to be represented by another solicitor, the name and address of that solicitor, and
- (b) where the applicant concerned is to be represented by another solicitor, that solicitor shall notify the Board of such representation as soon as possible by registered pre-paid post.

(8) Where an applicant is not legally represented, any notice or document to be served by or on behalf of the Board on such applicant shall be served at the address of the applicant that is specified in the application to the Board and where the address of that applicant changes the applicant shall immediately notify the Board in writing by registered pre-paid post of the change of address.

12. (1) A named relevant person, a specified relevant person, a public body or any other person who acts by solicitor shall inform the Board in writing of the name and address of that solicitor for the purpose of service of documents and the Board shall serve on the solicitor concerned any notice or document that is to be served on such named relevant person, specified relevant person, public body or other person as the case may be.

(2) A named relevant person, a specified relevant person, a public body or any other person who does not act by solicitor shall notify the Board of an address for the service of documents and the Board shall serve any notice or document to be served by or on behalf of the Board on such named relevant person, specified relevant person, public body or other person at the address so provided.

13. Where a solicitor ceases to act for an applicant, named relevant person, specified relevant person, public body or other person, the solicitor shall immediately notify the Board in writing by registered pre-paid post of such cessation.

14. The Board may, in any case, deem the service actually effected to be sufficient.

15. The address of the Board for the purpose of the service of documents shall be-

The Residential Institutions Redress Board,
Belfield Office Park,
Beech Hill Road,
Clonskeagh,
Dublin 4,
Ireland.

GIVEN under my Official Seal,
this _____ day of December 2002

Noel Dempsey, T.D.,
Minister for Education and Science