



HIGGINS CLAIMS SERVICES

LIABILITY & MOTOR INVESTIGATION | CLAIMS CONSULTANTS | LIABILITY LOSS ADJUSTERS

Investigate!

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PIAB LEADING TO DIRECT SETTLEMENT

PIAB was introduced in 2003 and the rules governing it were introduced in 2004. There was a storm of criticism from vested interests and the system was decried for being biased, unfair and overcomplicated. We predicted at the time that it would level the playing pitch that was so skewed against the defendant for so long.

In the initial months there was something of a push to exclude lawyers completely from the process. This led to the case of O'Brien v. Personal Injuries Assessment Board [2005]. A claimant and a lawyer acting on his behalf complained that the PIAB were wrong to state that they would not correspond with the solicitor but would only send him copies of letters that would be issued directly to the client. The Judge agreed but the scope of the decision was strictly limited. (There is a full discussion of this on our website).

Things began to settle down after that and some insurers are prepared to discuss cases with lawyers appointed by claimants. We have even heard of cases

where some provision is made in the settlement to "allow space for costs".

All of this is something of an aside however. What must be remembered is the reason why PIAB was introduced. It was because the cost of claims was high, leading to higher insurance costs and therefore influencing the competitiveness of Irish business.

Everything in the legislation and rules set the scene to make it easy for a genuine claimant to pursue their claim. It also made sure that the defendant/respondent was alerted to the claim at the earliest stage and had a chance to respond. It must also be remembered that the introduction of PIAB was supported by a very broad church including the Trades Unions.

There is space within the PIAB Rules for the defendant to make a direct approach to the claimant and this is seen by many as a logical extension of the work of the board. If relations with workers are as they should be, there is no reason why the parties cannot talk to



Following an icy reception by some, PIAB is bringing many changes to the handling and settlement of claims

each other and agree settlement. We have been involved in such settlements over the years and they can be very satisfactory for both parties.

It is important however that everyone behaves properly in the discharge of such claims. An understanding of ethics and the possession of suitable qualifications will be even more important in this new environment. Claims Departments are in pole position to deliver useful solutions to clients.

LIMITATION PERIODS SET TO CONFUSE...

We are starting to get cases where questions need to be asked about limitation periods. The Civil Liability and Courts Act 2004 amended the provisions of the Statute of Limitations Acts. The limitation period is now 2 years instead of three. However things are rarely that simple. It also provided that for any accidents occurring prior to 31/03/04, a plaintiff has three years in which to bring a claim. This means that if an accident occurs between the

31/03/04 and the 31/03/05, the plaintiff may bring a claim up until 30/03/07. If an accident occurs after the 31/03/05, a plaintiff has two years in which to bring a claim. The limitation period will cease to run once a plaintiff has completed and registered an application with the Personal Injuries Assessment Board. The requirement to notify within 2 months has been with us since Sept 2004 but we have not heard of anyone taking issue with this.

Please let us know if you have.

Anyone wanting to do the honours course on Limitation should have a look at the case of Derek Crowley v Roach Products (Ireland) Ltd and Others (2006) on our website. It was held that a delay of three years from accrual of the cause of action in the delivery of a statement of claim was prima facie a breach of the defendant's entitlement to a hearing within a reasonable time.

Investigate!

We are happy to welcome you to our newsletter. We hope to issue this on a quarterly basis as a way of staying in touch with our customers. We have a lot of information on our website but we are told that, some do not have access. Others find that with so much information out there a paper based solution works better. We will be happy to receive any feedback or comment. We will print and credit any useful information. We have called it "Investigate!" because we believe that investigation can add so much to the claims process. Then again we would say that, wouldn't we? Our topics will be those that we think are of interest to claims people generally. This issue has a discussion on PIAB, essential dates from the Courts Acts, Passengers in Drink Driving and Supervision in Schools. We also cover the IIF Guidelines on Communication and reveal some of the skills in taking statements. We hope that you find our scribbles to be of some use.

John Higgins

Summary of Date info:

- From 20th September 2004 claimant was required to send a letter of claim within 2 months.
- 31/3/5 is the effective date for the change in the statute.
- After 31/3/5 plaintiffs have only 2 years.
- Accidents between 31/3/4 and 31/3/5 have until 31/3/7 to claim.