

Subsidiary Legislation made under ss.30 & 82.

Housing (Housing Appeals) Regulations 2010

LN.2010/046

Commencement **11.3.2010**

ARRANGEMENT OF REGULATIONS

Regulation

1. Title and commencement.
2. Interpretation.
3. Right of appeal.
4. Time limit for appeal.
5. Service of notice of appeal.
6. Powers and procedure of the Tribunal.

SCHEDULE

2007-36

Housing

2010/046

Housing (Housing Appeals) Regulations 2010

In exercise of the powers conferred upon him by sections 30 and 82 of the Housing Act 2007, and of all other enabling powers, the Minister with responsibility for housing has made the following Regulations.

Title and commencement.

1. These Regulations may be cited as the Housing (Housing Appeals) Regulations 2010.

Interpretation.

2. In these Regulations—

“Housing Authority” means the Housing Authority referred to in section 2 of the principal Act;

“principal Act” means the Housing Act 2007;

“Tribunal” means the Housing Tribunal established under section 82 of the principal Act.

Right of appeal.

3.(1) A person who—

- (a) receives written notification of a relevant decision of the Housing Authority; and
- (b) is aggrieved by such decision,

may apply to the Tribunal for a declaration that the relevant decision is wrong in law or is in excess of jurisdiction.

(2) For the purposes of these Regulations, a relevant decision is a decision made by the Housing Authority—

- (a) allocating or refusing to allocate particular public housing to the applicant;
- (b) refusing to categorise the applicant’s application as either a medical or social case;
- (c) refusing to include a person in the applicant’s tenancy;
- (d) refusing to remove a person from the applicant’s tenancy;
- (e) refusing to identify the applicant as a person eligible or qualified to receive public housing;

- (f) refusing to approve an exchange of public housing by the applicant;
- (g) refusing to allocate discretionary points to the applicant;
- (h) refusing to approve priority allocation in respect of the applicant; or
- (i) refusing to reverse a reduction of the number of points allocated to the applicant.

Time limit for appeal.

4.(1) An appeal under these regulations shall be instituted within 21 days beginning with the day on which the written notice referred to in regulation 3 was received.

(2) For the purposes of this regulation a person shall be deemed to have received the written notification referred to in regulation 3 on the date of commencement of these Regulations where that person has received the written notice after the date of commencement of the principal Act and before the date of commencement of these Regulations.

Service of notice of appeal.

5. An appeal shall be instituted by the service on the Secretary to the Tribunal of a Notice of Appeal in the form set out in the Schedule to these Regulations.

Powers and procedure of the Tribunal.

6.(1) In determining an appeal under these Regulations—

- (a) Schedule 10 to the principal Act shall apply as though the appeal is brought under the principal Act; and
- (b) the Tribunal may require that the Housing Authority state a case for the opinion of the Tribunal on the question of law or jurisdiction involved.

(2) Notwithstanding paragraphs 3 and 6 of Schedule 10 to the Act, in determining an appeal under the principal Act or regulations made under the principal Act the Tribunal may not summon—

- (a) the Housing Authority or his representatives to appear before it in person;
- (b) any member of the Housing Allocation Committee to appear before it in person or to give any evidence to it in any form.

(3) In determining an appeal under these regulations—

(a) where the Tribunal is of the opinion that the relevant decision is wrong in law or is in excess of jurisdiction the Tribunal—

(i) shall make a declaration to that effect;

(ii) shall inform the appellant and the Housing Authority of such declaration; and

(iii) may, subject to sub-regulation (4), where it considers it appropriate to do so, request that the Housing Authority reconsider the relevant decision.

(b) where the Tribunal is not of the opinion that the relevant decision is wrong in law or is in excess of jurisdiction the Tribunal shall—

(i) confirm the decision of the Housing Authority; and

(ii) inform the appellant and the Housing Authority of such confirmation.

(4) Where the relevant decision—

(a) relates to the refusal to allocate particular public housing; and

(b) such public housing has been allocated to a person other than the person aggrieved,

the Tribunal may not make a request under sub-regulation (3)(a)(iii).

5. Where the Housing Authority receives a request under sub-regulation (3)(a)(iii) it shall reconsider the relevant decision de novo.

