

*Draft Regulations laid before the Scottish Parliament under section 107(2) of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2021 No.**

**REDRESS SCHEME**

**The Redress for Survivors (Historical Child Abuse in Care)  
(Exceptions to Eligibility) (Scotland) Regulations 2021**

*Made* - - - - 2021

*Coming into force* - - 1st December 2021

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 23(1) of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021<sup>(1)</sup>.

In accordance with section 107(2) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

**Citation, interpretation and commencement**

1.—(1) These Regulations may be cited as the Redress for Survivors (Historical Child Abuse in Care) (Exceptions to Eligibility) (Scotland) Regulations 2021 and come into force on 1 December 2021.

(2) In these Regulations, “the Act” means the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021.

**Exceptions to eligibility: short-term respite or holiday care placements**

2. An application may not be made under section 18 of the Act by or in respect of a person to the extent that it relates to abuse that occurred when that person was resident in a relevant care setting—

- (a) for the purpose of being provided with short-term respite or holiday care, and
- (b) under arrangements made between a parent or guardian of that person and another person.

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument:  
*The Redress for Survivors (Historical Child Abuse in Care) (Exceptions to Eligibility) (Scotland) Regulations 2021 No. 413*

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St Andrew's House,  
Edinburgh  
Date

*Name*  
A member of the Scottish Government

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in connection with the redress scheme established by the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 ([asp 15](#)) (“the Act”).

Section 18 of the Act enables a person to apply for a redress payment if the person or, in the case of an application for a next of kin payment, the person in respect of whom the application is made was abused while a child, and resident in a relevant care setting in Scotland. The abuse (as defined in section 19 of the Act to include sexual abuse, physical abuse, emotional abuse and abuse which takes the form of neglect) must have occurred before 1 December 2004. The definition of “relevant care setting” in section 20 of the Act comprises residential institutions such as children’s homes and residential care facilities, as well as other residential placements in consequence of boarding out or fostering arrangements. Section 18 is subject to section 23 of the Act.

Section 23(1) of the Act enables the Scottish Ministers to make regulations providing that an application may not be made under section 18 if the person who carried out the abuse was of a specified description, if the abuse was carried out in circumstances of a specified description, if the person who was abused came to be resident in the relevant care setting concerned in specified circumstances, or if the person who was abused was resident in the relevant care setting concerned for a specified purpose.

These Regulations make provision under section 23 of the Act for the purpose of creating exceptions to eligibility to apply for a redress payment under section 18 of the Act.

Regulation 2 makes provision for an exception where a person was placed in a relevant care setting for the purpose of being provided with short-term respite or holiday under arrangements made between a parent or guardian of that person and another person.

Impact assessments have been prepared in relation to the Act and instruments under it and will be published online at [www.gov.scot](http://www.gov.scot).