



Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021

2021 asp 15

REDRESS FOR SURVIVORS (HISTORICAL CHILD ABUSE IN CARE) (SCOTLAND) ACT 2021

PART 1

OVERVIEW AND MEANING OF “REDRESS SCHEME”

- 1 Overview of Act
- 2 Meaning of “redress scheme”

PART 2

OPERATION OF THE REDRESS SCHEME

Redress Scotland

- 3 Establishment
- 4 Status
- 5 Membership, procedures and powers etc.
- 6 Independence

Functions in relation to the redress scheme

- 7 Functions of Redress Scotland
- 8 Functions of the Scottish Ministers
- 9 Duty with respect to ensuring individuals can make informed choices
- 10 Provision of administrative support to Redress Scotland
- 11 Duty on the Scottish Ministers and Redress Scotland to co-operate
- 12 Sharing of information between the Scottish Ministers and Redress Scotland
- 13 Principle of dignity, respect and compassion

Status: Point in time view as at 07/12/2021.

Changes to legislation: There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

Contributions to the redress scheme

- 14 Scheme contributors
- 15 Statement of principles in relation to contributor list
- 16 Retrospective removal of scheme contributor from contributor list
- 17 Financial contributions by charities

PART 3

ELIGIBILITY AND KEY CONCEPTS

Eligibility to apply for redress payments

- 18 Eligibility to apply for a redress payment

Meaning of “abuse”

- 19 Meaning of “abuse”

Meanings of “relevant care setting” and “resident”

- 20 Meaning of “relevant care setting”
- 21 Meaning of “residential institution”: further provision
- 22 Meaning of “resident”

Exceptions to eligibility

- 23 Power to create exceptions to eligibility

Eligibility to apply for next of kin payments

- 24 Eligibility to apply for a next of kin payment
- 25 Eligibility to apply for a next of kin payment: exceptional circumstances
- 26 Review of determination made under section 25
- 27 Outcome of a section 26 review
- 28 Meaning of “specified next of kin”

PART 4

FINANCIAL REDRESS: REDRESS PAYMENTS

CHAPTER 1

DETERMINATION OF APPLICATIONS FOR REDRESS PAYMENTS

Applications

- 29 Application for a redress payment
- 30 Cases where more than one application permitted
- 31 Application period
- 32 Pausing of application
- 33 Withdrawal of application

Determination of applications

- 34 Prioritisation of applications
- 35 Decision-making panels
- 36 Determination of applications
- 37 Assessment of amount of redress payment

Status: Point in time view as at 07/12/2021.

Changes to legislation: There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

Payment levels

- 38 Fixed rate payment
- 39 Individually assessed payment
- 40 Next of kin payment
- 41 Power to adjust redress payment amounts for inflation

Deduction of previous payments

- 42 Deduction of previous payments from redress payment
- 43 Deduction of previous payments: further provision
- 44 Information about previous payments from applicant
- 45 Information about previous payments: further provision

Waiver

- 46 Waiver
- 47 Form and content of waiver
- 48 Report on effect of waiver on participation in redress scheme

Payment of redress payment

- 49 Period for which offer valid
- 50 Acceptance of offer and making of payments
- 51 Payments to children
- 52 Review of direction made under section 51
- 53 Outcome of a section 52 review

CHAPTER 2

REVIEW OF REDRESS PAYMENT DETERMINATIONS

- 54 Right to a review
- 55 Review panels
- 56 Procedure for a review
- 57 Outcome of a review
- 58 Period for which offer valid following a review
- 59 Withdrawal of review request

CHAPTER 3

APPLICATIONS AFFECTED BY CONVICTIONS FOR SERIOUS OFFENCES

- 60 Applicants etc. with convictions for serious offences
- 61 Applicants etc. with convictions for serious offences: definitions
- 62 Review of determination made under section 60
- 63 Outcome of a section 62 review
- 64 Information about convictions for serious offences

CHAPTER 4

DEATH OF APPLICANT

- 65 Nomination of a beneficiary
- 66 Applicant's death while application ongoing

*Status: Point in time view as at 07/12/2021.**Changes to legislation: There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)*

- 67 Access to information and evidence by nominated beneficiary
- 68 Review of determination made under section 66(3)
- 69 Outcome of a section 68 review
- 70 Applicant's death after offer accepted
- 71 Invitation to nominated beneficiary to take over application
- 72 Application taken over by nominated beneficiary
- 73 Nominated beneficiary's death etc.

CHAPTER 5

REDRESS PAYMENTS OR DETERMINATIONS MADE IN ERROR

- 74 Liability for redress payments made in error
- 75 Reconsideration of determination where possible material error
- 76 Review of reconsidered determination
- 77 Outcome of a section 76 review
- 78 Power to make further provision about reconsiderations

CHAPTER 6

PROVISION OF INFORMATION AND EVIDENCE

- 79 Power of the Scottish Ministers to require the provision of evidence
- 80 Power to obtain information about previous payments
- 81 Redress Scotland's power in relation to information and evidence
- 82 Applicant access to information and evidence
- 83 Power to commission reports
- 84 Offences of failure to provide, and of tampering with, information or evidence
- 85 Individual culpability where an organisation commits an offence under section 84
- 86 Crown application in relation to offences under section 84
- 87 Confidentiality of information
- 88 Power to share information with third parties

PART 5

OTHER SUPPORT FOR SURVIVORS OF ABUSE

Provision of support

- 89 Provision of support to persons in connection with an application
- 90 Provision of support to certain persons eligible for a payment etc.

Payment of costs and expenses

- 91 Reimbursement of costs incurred in connection with applications

Payment of fees for legal work

- 92 Duty on the Scottish Ministers to pay fee for legal work in making an application
- 93 Duty on the Scottish Ministers to pay certain fees for legal work in exceptional cases
- 94 Sections 92 and 93: further provision

Status: Point in time view as at 07/12/2021.

Changes to legislation: There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

- 95 Assessment, notification and review of certain fee payment requests
- 96 Restriction on additional legal fees

Liability for certain payments made in error

- 97 Liability for payments, other than redress payments, made in error
- 98 Power to make further provision about payments, other than redress payments, made in error

PART 6

REPORTING ON WIDER REDRESS ACTIONS

- 99 Annual report on wider redress actions
- 100 Power of the Scottish Ministers to require production of report
- 101 Power to make provision about additional redress reporting

PART 7

GENERAL AND MISCELLANEOUS

- 102 The Survivor Forum
- 103 Dissolution of the National Confidential Forum
- 104 Dissolution of Redress Scotland
- 105 Interpretation
- 106 Guidance
- 107 Regulation-making powers
- 108 Ancillary provision
- 109 Commencement
- 110 Short title

SCHEDULE 1 — Redress Scotland

Membership

- 1 (1) Redress Scotland is to consist of—

Terms and conditions of appointment

- 2 (1) A member is appointed for such period (being not...

Equal opportunities

- 3 (1) When appointing members of Redress Scotland, the Scottish Ministers...

Persons who may not be appointed

- 4 A person may not be appointed as a member of...

Early termination of membership

- 5 (1) A member of Redress Scotland, including the chairing member,...

*Status: Point in time view as at 07/12/2021.**Changes to legislation: There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)**Members' remuneration and allowances*

- 6 Redress Scotland must pay each member such remuneration and allowances...

Chief executive and other staff

- 7 (1) Redress Scotland is to appoint, as a member of...

Staff pensions

- 8 (1) Redress Scotland may pay or make arrangements for the...

Committees

- 9 (1) Redress Scotland may establish committees for any purpose relating...

Authority to perform functions

- 10 (1) Redress Scotland may authorise— (a) any of its members,...

Regulation of procedure

- 11 The rules of procedure of Redress Scotland and that of...

Validity of things done

- 12 The validity of anything done by Redress Scotland or any...

General powers

- 13 (1) Redress Scotland may do anything which it considers to...

Funding and financial assistance

- 14 (1) The Scottish Ministers may provide such financial assistance to...

Corporate plan

- 15 (1) Redress Scotland must submit a corporate plan to the...

Accounts and audit

- 16 (1) Redress Scotland must— (a) keep proper accounts and accounting...

Annual report

- 17 (1) Redress Scotland must, as soon as practicable after the...

Application of public bodies legislation

- 18 In the Ethical Standards in Public Life etc. (Scotland) Act...
 19 In the Scottish Public Services Ombudsman Act 2002, in schedule...
 20 In the Freedom of Information (Scotland) Act 2002, in Part...
 21 In the Public Services Reform (Scotland) Act 2010—
 22 In the Public Records (Scotland) Act 2011, in the schedule, ...
 23 In the Procurement Reform (Scotland) Act 2014, in Part 3...
 24 In the Gender Representation on Public Boards (Scotland) Act 2018, ...

Status: Point in time view as at 07/12/2021.

Changes to legislation: *There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)*

SCHEDULE 2 — The National Confidential Forum
PART 1 — CONTINUING MATTERS

Confidentiality and disclosure of information

- 1 (1) This sub-paragraph applies to— (a) the Mental Welfare Commission...

Public records

- 2 Section 1 of the Public Records (Scotland) Act 2011 (records...
PART 2 — CONSEQUENTIAL MODIFICATIONS

Public Appointments and Public Bodies etc. (Scotland) Act 2003

- 3 (1) The Public Appointments and Public Bodies etc. (Scotland) Act...

Mental Health (Care and Treatment) (Scotland) Act 2003

- 4 (1) The Mental Health (Care and Treatment) (Scotland) Act 2003...

Victims and Witnesses (Scotland) Act 2014

- 5 (1) The Victims and Witnesses (Scotland) Act 2014 is amended...

National Confidential Forum (Prescribed Care and Health Services) (Scotland) Order 2014

- 6 The National Confidential Forum (Prescribed Care and Health Services) (Scotland)...

Gender Representation on Public Boards (Scotland) Act 2018

- 7 (1) The Gender Representation on Public Boards (Scotland) Act 2018...

Status:

Point in time view as at 07/12/2021.

Changes to legislation:

There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021.