



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

2021 asp 15

PART 2 **S**

OPERATION OF THE REDRESS SCHEME

Functions in relation to the redress scheme

7 **Functions of Redress Scotland** **S**

Redress Scotland has the general function of making determinations in connection with applications by individuals under the redress scheme, including determining—

- (a) applications for redress payments,
- (b) requests for a review of a determination,
- (c) referrals for reconsideration of a determination where the determination may have been materially affected by an error.

Commencement Information

II [S. 7](#) in force at 7.12.2021 by [S.S.I. 2021/419](#), [reg. 2](#)

8 **Functions of the Scottish Ministers** **S**

The Scottish Ministers have, in relation to the redress scheme, the general functions of—

- (a) making administrative arrangements for the establishment and operation of the redress scheme,
- (b) providing information, guidance and support to individuals in connection with applications under the redress scheme.

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

Commencement Information

I2 S. 8 in force at 28.6.2021 by S.S.I. 2021/234, reg. 2, sch.

9 Duty with respect to ensuring individuals can make informed choices S

- (1) In exercising their functions under paragraph (b) of section 8, the Scottish Ministers must use their best endeavours to ensure that persons who—
 - (a) are, or may be, considering making an application for a redress payment, or
 - (b) have decided to make, or have made, such an application,
 have the opportunity to make informed choices.
- (2) Accordingly, the Scottish Ministers must prepare and publish a statement setting out information about—
 - (a) the options available to such persons at each stage of the process of making an application for a redress payment,
 - (b) the support and other assistance available to such persons under the redress scheme, and
 - (c) the redress for survivors of historical child abuse in care in Scotland, including financial redress, which may be available to such persons otherwise than under the redress scheme.
- (3) The statement (the “summary of options”) must include, or set out details of where to find, information about—
 - (a) the options a person has in relation to—
 - (i) making, pausing and withdrawing an application for a redress payment,
 - (ii) accepting an offer of a redress payment, including the timescales for so doing, and the effect of signing and returning a waiver,
 - (iii) requesting a review of a determination made by Redress Scotland,
 - (b) the sources and types of information or evidence that an application for a redress payment may or must contain or be accompanied by,
 - (c) how such information and evidence may be obtained and shared, in particular the assistance available under the scheme in connection with obtaining such information and evidence,
 - (d) the importance of obtaining independent legal advice, in particular before accepting an offer of a redress payment and signing and returning a waiver,
 - (e) the availability, under the redress scheme, of payment of fees for legal work in connection with applications, and
 - (f) the support available under the scheme in connection with applications for redress payments.
- (4) The summary of options may include such other information as the Scottish Ministers consider appropriate.
- (5) The Scottish Ministers must keep the summary of options under review and may modify it from time to time.
- (6) In complying with their duty under subsection (5), the Scottish Ministers must have regard to any recommendations included, by virtue of paragraph 17(2) of schedule 1, in an annual report prepared by Redress Scotland.

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

- (7) If the Scottish Ministers modify the summary of options, they must publish the modified summary.

Commencement Information

I3 [S. 9](#) in force at 7.12.2021 by [S.S.I. 2021/419](#), [reg. 2](#)

10 Provision of administrative support to Redress Scotland **S**

The Scottish Ministers must provide such administrative support to Redress Scotland as they consider necessary to enable Redress Scotland to perform the functions conferred on it under or by virtue of this Act.

Commencement Information

I4 [S. 10](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

11 Duty on the Scottish Ministers and Redress Scotland to co-operate **S**

- (1) The Scottish Ministers and Redress Scotland must co-operate with one another in exercising the functions in relation to the redress scheme conferred on them or on it under or by virtue of this Act.
- (2) Subsection (1) is subject to section 12.

Commencement Information

I5 [S. 11](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

12 Sharing of information between the Scottish Ministers and Redress Scotland **S**

- (1) The Scottish Ministers and Redress Scotland may, in the circumstances mentioned in subsection (2), disclose information to each other.
- (2) The circumstances are that disclosure of the information is—
- (a) necessary to enable the Scottish Ministers or Redress Scotland to perform a function conferred on them or on it under or by virtue of this Act, or
 - (b) otherwise necessary for or in connection with the operation of the redress scheme.
- (3) Nothing in this section authorises a disclosure of any information that would be in contravention of the data protection legislation.
- (4) In this section, “the data protection legislation” has the meaning given by section 3(9) of the Data Protection Act 2018.

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

Commencement Information

I6 [S. 12](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), reg. 2, [sch.](#)

13 Principle of dignity, respect and compassion **S**

- (1) The Scottish Ministers, Redress Scotland, scheme contributors and other relevant persons must, in exercising functions conferred on them under or by virtue of this Act, have regard to the principle that the following persons should be treated with dignity, respect and compassion—
- (a) persons who have made, or have decided to make, an application for a redress payment,
 - (b) persons who are, or may be, considering making such an application,
 - (c) persons who are being or are eligible to be provided with support by virtue of arrangements made under section 90,
 - (d) persons who have requested or may be considering requesting reimbursement of costs and expenses by virtue of regulations under section 91,
 - (e) nominated beneficiaries.
- (2) For the purpose of subsection (1), “other relevant persons” are persons on whom functions are conferred under or by virtue of this Act, other than—
- (a) the Scottish Ministers, Redress Scotland and scheme contributors, and
 - (b) persons mentioned in paragraphs (a) to (e) of subsection (1).

Commencement Information

I7 [S. 13](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), reg. 2, [sch.](#)

Changes to legislation:

There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, Cross Heading: Functions in relation to the redress scheme.