



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

2021 asp 15

## PART 4

### FINANCIAL REDRESS: REDRESS PAYMENTS

#### CHAPTER 1

##### DETERMINATION OF APPLICATIONS FOR REDRESS PAYMENTS

###### *Applications*

#### **29 Application for a redress payment**

- (1) An application for a redress payment must—
  - (a) be made to the Scottish Ministers,
  - (b) be received during the application period,
  - (c) be an application for—
    - (i) a fixed rate payment,
    - (ii) an individually assessed payment, or
    - (iii) a next of kin payment,
  - (d) be made in such form, if any, as Ministers require, and
  - (e) contain or be accompanied by such information or evidence as Ministers require.
- (2) An application may relate to one or more relevant care settings in which abuse took place.
- (3) Other than as provided for in section 30, only one application may be made in respect of a person who was abused.
- (4) On receiving an application, the Scottish Ministers must provide the summary of options to the applicant.

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- (5) The Scottish Ministers must provide any application received, and any information or evidence accompanying it, to Redress Scotland.
- (6) The Scottish Ministers must publicise any requirements which are for the time being set under subsection (1)(d) or (e).

### **30 Cases where more than one application permitted**

- (1) This section makes provision about when a person who is eligible to apply for a redress payment may do so despite an application already having been made in respect of the person who was abused and to whom the application will relate.
- (2) An application for an individually assessed payment may be made by a person where—
  - (a) an application for a fixed rate payment has previously been made in respect of the person, and
  - (b) that application resulted in a determination that the person was eligible for a fixed rate payment.
- (3) An application for an individually assessed payment may be made by a person where—
  - (a) an application for an individually assessed payment has previously been made in respect of the person,
  - (b) that application resulted in the applicant accepting a redress payment other than a level 5 payment, and
  - (c) Redress Scotland is satisfied that allowing a further application is justified on the basis that—
    - (i) new evidence is available which the person had a reasonable excuse for not providing in connection with the previous application, or
    - (ii) regulations under section 20(4) have had the effect of modifying eligibility to apply for a redress payment.
- (4) An application for a next of kin payment may be made by a person where—
  - (a) a deceased person had previously applied for a fixed rate payment or an individually assessed payment, and
  - (b) the circumstances are such that the person is permitted to apply for a next of kin payment under section 24(1).
- (5) An application for a next of kin payment may be made by a child of a deceased person where an application for a next of kin payment has previously been made in respect of the deceased person by another child of the deceased person.
- (6) An application for a redress payment may be made by a person where—
  - (a) a previous application in respect of the person was withdrawn under section 33, and
  - (b) the new application is for a type of redress payment the person would have been able to apply for had the withdrawn application not been made.
- (7) An application for a redress payment may be made by a person where—
  - (a) an application for a redress payment has previously resulted in a determination under section 60 that the person was precluded from being offered a redress payment, and

- (b) as a result of an appeal in respect of a conviction or sentence, section 60 will no longer apply in respect of an application by the person.
- (8) An application for a redress payment may be made in respect of a person where—
- (a) the person has not previously received a redress payment of a particular type despite having made an application for it which has been brought to an end, but
  - (b) Redress Scotland is satisfied that special circumstances exist which justify allowing a further application.
- (9) For the purpose of subsection (8), special circumstances may include—
- (a) the person’s individual circumstances,
  - (b) the availability of new evidence which the person had a reasonable excuse for not providing in connection with the original application,
  - (c) regulations under section 20(4) having had the effect of modifying eligibility to apply for a redress payment.

### **31 Application period**

- (1) For the purpose of this Act, the application period during which an application for a redress payment may be made—
- (a) begins on the day this section comes into force, and
  - (b) ends with whichever is the later of—
    - (i) the expiry of the period of 5 years beginning with that day,
    - (ii) the day falling 2 years after the Scottish Child Abuse Inquiry (established under the Inquiries Act 2005) publishes its final report.
- (2) The Scottish Ministers may by regulations modify paragraph (b) of subsection (1) so as to extend the application period for the time being specified in that subsection.
- (3) The Scottish Ministers must, within the period of 15 months ending with the day the application period is due to end under subsection (1)(b), carry out a review of whether the application period should be extended.
- (4) But subsection (3) does not apply if, at the beginning of the 15 month period—
- (a) the application period has already been extended by regulations under subsection (2), or
  - (b) a draft Scottish statutory instrument containing regulations under subsection (2) has been laid and is before the Scottish Parliament for approval.
- (5) As soon as reasonably practicable following completion of a review under subsection (3), the Scottish Ministers must—
- (a) publish the findings of the review,
  - (b) lay the findings of the review before the Scottish Parliament.

### **32 Pausing of application**

- (1) An application for a redress payment may, at the request of the applicant—
- (a) be paused, or
  - (b) having been paused, be resumed,
- at any time prior to a determination being made under section 36.
- (2) A request under subsection (1) must be made in writing to the Scottish Ministers.

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- (3) The Scottish Ministers must, as soon as reasonably practicable after receiving a request under subsection (1), inform Redress Scotland of it.
- (4) Where Redress Scotland is informed of a request that an application be paused, Redress Scotland must pause any further determination of the application to which the request relates until such time as Redress Scotland is informed that—
  - (a) the applicant has requested that determination of the application be resumed, or
  - (b) the application has been withdrawn under section 33.
- (5) Where an application is paused under this section, it is to be treated as having been withdrawn on the final day of the application period unless the applicant, on or before that day, either requests that the application be resumed or requests that it be withdrawn.

### **33 Withdrawal of application**

- (1) An application for a redress payment may be withdrawn at the request of the applicant at any time prior to a determination being made under section 36.
- (2) A request under subsection (1) must be made in writing to the Scottish Ministers.
- (3) The Scottish Ministers must, as soon as reasonably practicable after receiving a request under subsection (1), inform Redress Scotland of it.
- (4) Where Redress Scotland is informed of a request that an application be withdrawn, Redress Scotland must bring to an end any further determination of the application to which the request relates.
- (5) Where an application is withdrawn, it is to be treated for the purpose of section 24(3)
  - (a) as never having been made.