



# 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

##### *Payment of redress payment*

#### **49 Period for which offer valid**

- (1) An applicant to whom an offer of a redress payment is made under section 36 may—
  - (a) bring the application to an end by accepting the offer in accordance with section 50(1), or
  - (b) request a review of the offer in accordance with section 54.
- (2) If neither of the actions specified in subsection (1) is taken within the period for which the offer is valid, the application is to be treated as having been brought to an end by the offer being rejected unless it is continued by virtue of section 66(1).
- (3) The period for which the offer is valid is—
  - (a) the period of 6 months beginning with the date on which the offer was received by the applicant, or
  - (b) where the panel appointed under section 35 to determine the application is satisfied that there is a good reason why the applicant needs, or may need, longer to consider whether or not to accept the offer, such longer period as the panel determines.
- (4) Where an application is treated as having been brought to an end by virtue of subsection (2), the panel previously appointed under section 35 to determine it, or such

other panel as the chairing member of Redress Scotland determines, may revive the application if it considers that there are exceptional circumstances which merit it.

- (5) Where an application is revived by virtue of subsection (4)—
  - (a) the offer of a redress payment previously made in relation to it is also revived, and
  - (b) the period for which the revived offer is valid is such period as the panel determines.

## **50 Acceptance of offer and making of payments**

- (1) An offer of a redress payment is accepted—
  - (a) by the applicant to whom the offer is made signing and returning a waiver to the Scottish Ministers under section 46, or
  - (b) in a case where section 46(2) applies to the applicant, by the applicant giving the Scottish Ministers notice in writing that the offer is accepted.
- (2) Entitlement to a redress payment from the Scottish Ministers arises where—
  - (a) an offer of a redress payment is accepted in accordance with subsection (1), and
  - (b) the Scottish Ministers are satisfied that the applicant has abandoned or will abandon any civil proceedings to the extent they are relevant civil proceedings in accordance with the waiver signed and returned under section 46.
- (3) A redress payment is to be paid by the Scottish Ministers—
  - (a) in such instalments as are agreed at the request of, or otherwise with the consent of, the applicant, or
  - (b) otherwise, as a single payment.
- (4) In this section, “relevant civil proceedings” has the meaning given by section 46.

## **51 Payments to children**

- (1) This section applies where a panel appointed under section 35 to determine an application for a redress payment or, as the case may be, a review panel appointed under section 55 to conduct a review makes an offer of a redress payment to an applicant who is under the age of 18 years.
- (2) The panel may give such directions relating to the payment and management of the redress payment for the benefit of the applicant as it considers appropriate.
- (3) A direction under subsection (2) may, in particular, provide that the redress payment—
  - (a) is to be paid in instalments,
  - (b) is not to be paid until the applicant reaches the age of 18.
- (4) Where a direction under subsection (2) postpones the payment of the whole or part of the redress payment—
  - (a) Redress Scotland may at any time, at the request of or otherwise with the consent of the applicant, instruct the Scottish Ministers to make earlier payment to the applicant of the whole or part of the redress payment or, as the case may be, any remaining balance of it,

- (b) on the applicant reaching the age of 18, the Scottish Ministers must pay the redress payment or, as the case may be, the balance of it (if any) to the applicant in accordance with paragraphs (a) and (b) of section 50(3).

## **52 Review of direction made under section 51**

- (1) An applicant who is notified of a direction under section 51(2) relating to the payment and management of a redress payment may request a review of the direction.
- (2) A request for a review must—
  - (a) be made to the Scottish Ministers,
  - (b) be made before the end of the period of 8 weeks beginning with the date on which notice of the direction was received by the applicant,
  - (c) be made in such form, if any, as Ministers require,
  - (d) specify why a review is being requested, and
  - (e) contain or be accompanied by any information the applicant considers relevant.
- (3) The Scottish Ministers must, as soon as reasonably practicable after receiving a request for a review, provide the request, and any information accompanying it, to Redress Scotland.
- (4) A review may be conducted despite the request for it not being made within the period specified in subsection (2)(b) if Redress Scotland is satisfied that the applicant has a good reason for not requesting a review sooner.
- (5) The Scottish Ministers must publicise any requirements which are for the time being set under subsection (2)(c).
- (6) Sections 55, 56 and 59(1) to (5) apply for the purposes of a review under this section as they apply for the purposes of a review under section 54, subject to the modification that the reference in section 59(1) to a determination being made under section 57 is to be read as a reference to a determination being made under section 53.

## **53 Outcome of a section 52 review**

- (1) On a review under section 52, the review panel appointed under section 55 to conduct it—
  - (a) must consider—
    - (i) whether the panel which gave the direction under section 51(2) relating to the payment and management of a redress payment ought to have done so,
    - (ii) in a case where additional evidence is provided to or obtained by the review panel, whether the question of what (if any) direction is given relating to the payment and management of a redress payment ought to be determined differently as a result,
  - (b) may uphold or reverse the direction.
- (2) Once the review panel has conducted the review, Redress Scotland must inform the Scottish Ministers who must, as soon as reasonably practicable—
  - (a) notify the applicant of the review panel's determination, and

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***Status:** This is the original version (as it was originally enacted).*

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- (b) provide the applicant with a summary, provided by Redress Scotland, of the review panel's reasons for reaching that determination.
- (3) The determination of the review panel under this section is final.