



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

## 2021 asp 15

### PART 7

#### GENERAL AND MISCELLANEOUS

#### **102 The Survivor Forum**

- (1) The Scottish Ministers must establish and maintain a forum, known as the Survivor Forum, consisting of—
  - (a) survivors of historical child abuse in care in Scotland,
  - (b) such other persons as Ministers consider appropriate.
- (2) The purpose of the Forum is to provide feedback to the Scottish Ministers and Redress Scotland on the exercise of the functions conferred on them or on it under or by virtue of this Act.
- (3) But the Forum may not provide feedback on the determinations made in relation to redress payments in individual cases.
- (4) The Scottish Ministers may pay Forum members such allowances and expenses as they consider appropriate.
- (5) The Scottish Ministers may by regulations—
  - (a) make further provision about or in connection with the Forum,
  - (b) make provision for the dissolution of the Forum in connection with or following the dissolution of Redress Scotland under section 104.
- (6) Regulations under subsection (5) may modify any enactment (including this Act).

#### **Commencement Information**

**II** S. 102 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, PART 7. (See end of Document for details)*

### 103 Dissolution of the National Confidential Forum

- (1) The committee known as the National Confidential Forum (“NCF”) provided for under section 4ZA(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 is dissolved.
- (2) Schedule 2 makes further provision in consequence of subsection (1).

#### Commencement Information

**I2** S. 103 in force at 28.6.2021 by S.S.I. 2021/234, reg. 2, sch.

### 104 Dissolution of Redress Scotland

- (1) The Scottish Ministers may by regulations make provision for the dissolution of Redress Scotland.
- (2) Regulations under subsection (1) may be made only if—
  - (a) the application period has ended,
  - (b) the Scottish Ministers are satisfied that there are no ongoing—
    - (i) applications for redress payments,
    - (ii) fee payment requests under section 92 or 93, and
  - (c) Redress Scotland no longer has, or no longer will have as a result of the regulations, any of the functions mentioned in section 7.
- (3) Regulations under subsection (1) may make provision—
  - (a) modifying or bringing to an end any function of Redress Scotland,
  - (b) transferring any function of Redress Scotland to—
    - (i) the Scottish Ministers, or
    - (ii) any other body.
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult—
  - (a) Redress Scotland,
  - (b) such other persons as they consider appropriate.
- (5) Regulations under subsection (1) may modify any enactment (including this Act).

#### Commencement Information

**I3** S. 104 in force at 7.12.2021 by S.S.I. 2021/419, reg. 2

### 105 Interpretation

- (1) In this Act—
  - “abuse” has the meaning given by section 19,
  - “advance payment scheme” has the meaning given by section 42(7),
  - “application period” is to be construed in accordance with section 31,
  - “child” is to be construed in accordance with section 18(3) and (4),
  - “child of the deceased person” has the meaning given by section 28(4),
  - “contributor list” has the meaning given by section 14(2)(a),

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“fee payment request” is to be construed in accordance with section 94(1),  
“fixed rate payment” is to be construed in accordance with section 38,  
“individually assessed payment” is to be construed in accordance with section 39,  
“NCF” is to be construed in accordance with section 103(1),  
“next of kin payment” is to be construed in accordance with section 40,  
“nominated beneficiary” has the meaning given by section 65(1),  
“notify” means doing so by giving notice in writing,  
“reconsideration panel” has the meaning given by section 75(2),  
“redress payment” means a payment made under Part 4 of this Act,  
“redress report” has the meaning given by section 99(1),  
“redress scheme” has the meaning given by section 2,  
“Redress Scotland” means the body established under section 3(1),  
“relevant care setting” is to be construed in accordance with section 20,  
“relevant payment” is to be construed in accordance with section 42(2),  
“resident” has the meaning given by section 22,  
“review panel” has the meaning given by section 55(1),  
“scheme contributor” has the meaning given by section 14(2)(b),  
“specified next of kin” is to be construed in accordance with section 28,  
“summary of options” is to be construed in accordance with section 9(3),  
“voluntary organisation” means a body (other than a public authority) the activities of which are carried on otherwise than for profit.

- (2) In this Act, in construing references to a person having previously received or, as the case may be, been paid a redress payment—
- (a) the deduction from that payment of a relevant payment in accordance with section 42 is to be ignored,
  - (b) a person who has accepted a redress payment which is still to be paid (in instalments or otherwise) is to be treated as having received it or been paid it, as the case may be.

## 106 Guidance

- (1) The Scottish Ministers may issue guidance about the operation of this Act.
- (2) A person to whom guidance issued under subsection (1) applies must have regard to it.
- (3) Guidance issued under subsection (1) may, in particular, include provision about—
  - (a) the exercise of a function of Redress Scotland under or by virtue of this Act,
  - (b) eligibility to apply for redress payments, and the meaning of any expression used in Part 3,
  - (c) the sources and types of information or evidence that an application for a redress payment under section 29 may or must contain or be accompanied by, and the circumstances where it might be appropriate for Redress Scotland to seek information or evidence in determining an application,
  - (d) the determination of applications under section 36, including the standard of proof to be applied and the operation of the presumption mentioned in subsection (3) of that section,

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- (e) the length of time that should be taken to consider an application before providing a determination and, where relevant, an offer of a redress payment,
  - (f) the assessment of applications for individually assessed payments for the purpose of section 39,
  - (g) the assessment under section 60 of whether or not applicants or other persons with convictions for serious offences are precluded from being offered a redress payment,
  - (h) the meaning of “exceptional circumstances” for the purpose of section 66(4),
  - (i) the meaning of “exceptional or unexpected circumstances” for the purposes of sections 91(1)(b) and 93(1) and (3),
  - (j) the duty in relation to reporting on wider redress actions imposed on relevant persons under section 99.
- (4) In issuing guidance under subsection (1), 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.
- (5) As soon as reasonably practicable after issuing guidance under subsection (1), the Scottish Ministers must lay a copy of the guidance before the Scottish Parliament.
- (6) The Scottish Ministers must make guidance issued under subsection (1) publicly available.
- (7) The power to issue guidance under subsection (1) includes the power to—
- (a) issue guidance which varies guidance issued under that subsection,
  - (b) revoke guidance issued under that subsection.
- (8) For the purpose of this section, guidance about the operation of this Act issued before the day this section comes into force is to be regarded as guidance issued under subsection (1).

**Commencement Information**

**I4** S. 106 in force at 28.6.2021 by S.S.I. 2021/234, reg. 2, sch.

**107 Regulation-making powers**

- (1) Any power of the Scottish Ministers to make regulations under this Act includes the power to make—
- (a) different provision for different purposes,
  - (b) incidental, supplementary, consequential, transitional, transitory or saving provision.
- (2) Regulations under the following provisions are subject to the affirmative procedure—
- (a) section 20(4),
  - (b) section 23(1),
  - (c) section 31(2),
  - (d) section 42(6),
  - (e) section 47,
  - (f) section 61(2),
  - (g) section 78(1),

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- (h) section 98(1),
  - (i) section 102(5)(b),
  - (j) section 104(1).
- (3) Regulations under the following provisions are subject to the negative procedure—
- (a) section 41,
  - (b) section 44(2)(e),
  - (c) section 91(1),
  - (d) section 94(4),
  - (e) section 95(5),
  - (f) section 99(7),
  - (g) section 101,
  - (h) paragraph 2(5) of schedule 1.
- (4) Regulations under sections 94(3), 102(5)(a) and 108—
- (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
  - (b) otherwise, are subject to the negative procedure.
- (5) This section does not apply to section 109.

#### **108 Ancillary provision**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act.
- (2) Regulations under this section may modify any enactment (including this Act).

#### **109 Commencement**

- (1) This section and sections 105, 107, 108 and 110 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
  - (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.
- (4) Regulations under this section bringing section 31 into force may amend subsection (1) (a) of that section so that, instead of referring to the day that section comes into force, it specifies the date that section actually came into force.

#### **110 Short title**

The short title of this Act is the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021.

**Changes to legislation:**

There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021, PART 7.