



# 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

###### *Determination of applications*

### **36 Determination of applications**

- (1) On receipt of an application by Redress Scotland under section 29, the panel appointed under section 35 to determine the application must determine—
  - (a) whether, on the balance of probabilities, the applicant is eligible for the type of redress payment sought, and
  - (b) if so, the amount which the applicant is to be offered.
- (2) An application is to be determined on the basis of—
  - (a) the information provided in or with the application,
  - (b) any further information provided in response to a request by the panel, and
  - (c) any other information which the panel considers relevant.
- (3) In determining an application, the panel is to start with the presumption that any information provided by the applicant in respect of the application is true and accurate to the best of the applicant's knowledge and belief.
- (4) When determining an application, the panel must not rule on, and has no power to determine, any person's civil or criminal liability arising from any matter to which the application relates.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The procedure for determining an application is otherwise to be determined by Redress Scotland.
- (6) Once the panel has determined the application, Redress Scotland must inform the Scottish Ministers who must, as soon as reasonably practicable—
  - (a) notify the applicant of the determination, and
  - (b) provide the applicant with—
    - (i) a summary, provided by Redress Scotland, of the panel’s reasons for reaching that determination,
    - (ii) the summary of options, and
    - (iii) where an offer of a redress payment is made, information about the period for which the offer remains valid under section 49 and the options available to the applicant in respect of it.
- (7) For the purposes of other proceedings, neither the offer of a redress payment nor the failure to make an offer is to be taken as a finding as to whether or not a person who is referred to in an application acted, or failed to act, in a way suggested in the application.