



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

2021 asp 15

PART 4

FINANCIAL REDRESS: REDRESS PAYMENTS

CHAPTER 3

APPLICATIONS AFFECTED BY CONVICTIONS FOR SERIOUS OFFENCES

60 Applicants etc. with convictions for serious offences

- (1) This section applies where, at any time before a panel appointed under section 35 to determine an application, or, as the case may be, a review panel appointed under section 55 to conduct a review, does so, a person mentioned in subsection (2) is—
- (a) convicted of—
 - (i) murder,
 - (ii) rape, or
 - (iii) a relevant offence for which the person is sentenced to imprisonment for a term of 5 years or more, or
 - (b) convicted of an equivalent offence and, in the case of an offence equivalent to a relevant offence, is sentenced to imprisonment for a term of 5 years or more.
- (2) The person referred to in subsection (1) is—
- (a) in the case of an application for a fixed rate payment or an individually assessed payment—
 - (i) the applicant, or
 - (ii) where the applicant dies while the application is ongoing, the applicant or the applicant's nominated beneficiary,
 - (b) in the case of an application for a next of kin payment, the applicant or the person in respect of whom the application is made.

Status: This is the original version (as it was originally enacted).

- (3) For the purpose of subsection (2)(a)(ii), whether an application is ongoing is to be determined in accordance with section 66(6) and (7).
- (4) Before the panel mentioned in subsection (1) determines the application or, as the case may be, the request for a review, it must determine, in accordance with subsection (5), whether or not the applicant or, as the case may be, the nominated beneficiary (“the relevant person”) is precluded from being offered a redress payment.
- (5) The relevant person is precluded from being offered a redress payment where the panel, having regard to the matters mentioned in subsection (6), considers that it would be contrary to the public interest to make a redress payment to that person.
- (6) The matters referred to in subsection (5) are—
 - (a) the nature of the offence,
 - (b) the sentence imposed (and, where the sentence is or includes imprisonment, the term imposed),
 - (c) the length of time since the offence was committed,
 - (d) any rehabilitation activity undertaken by the person who committed the offence, and
 - (e) any other matter that the panel considers relevant.
- (7) Where the panel mentioned in subsection (1) determines under subsection (4) that a relevant person is precluded from being offered a redress payment, it may also determine whether or not the relevant person would otherwise have been eligible for a redress payment.
- (8) Once the panel has determined whether or not the relevant person is precluded from being offered a redress payment and, where applicable, whether or not the person would otherwise have been eligible for such a payment, Redress Scotland must inform the Scottish Ministers who must, as soon as reasonably practicable—
 - (a) notify the relevant person of the determination, and
 - (b) provide the relevant person with a summary, provided by Redress Scotland, of the panel’s reasons for reaching that determination.
- (9) In this section, “equivalent offence” means an offence under the law in force in a country outside the United Kingdom at the time of the offence where the acts or omissions which constitute the offence would, if committed in the United Kingdom, have constituted an offence mentioned in subsection (1)(a).