



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

2021 asp 15

PART 4

FINANCIAL REDRESS: REDRESS PAYMENTS

CHAPTER 4

DEATH OF APPLICANT

72 Application taken over by nominated beneficiary

- (1) Where a nominated beneficiary takes over an application by virtue of section 71—
- (a) the application and any review of it is, subject to section 60, to be determined by the panel on the basis of the eligibility of the applicant,
 - (b) any relevant payments to be deducted from a redress payment are to be based on payments made to the applicant or to which the applicant was entitled, and
 - (c) the question of whether a fixed rate payment or, in the case of an application made by virtue of section 30(3), an individually assessed payment has previously been paid is to be determined based on payment to the applicant or the applicant's estate,

but the nominated beneficiary is otherwise, subject to section 70 and the exceptions in subsection (3), to be treated for the purposes of this Act as taking the place of the applicant in relation to the application.

- (2) Accordingly, subject to section 70 and the exceptions in subsection (3)—
- (a) the nominated beneficiary is, subject to section 60, to be offered any redress payment which the applicant would, if alive, have been offered in respect of the application,
 - (b) the nominated beneficiary may do anything under this Act in relation to the determination of the application which the applicant could have done if alive (including seeking costs and expenses in connection with it), and

Status: This is the original version (as it was originally enacted).

- (c) any requirement imposed by this Act on the applicant in relation to the application is to be treated as being imposed on the nominated beneficiary.
- (3) The exceptions referred to in subsections (1) and (2) are—
 - (a) for the purpose of Part 3, the nominated beneficiary is not to be treated as having applied for a redress payment,
 - (b) in relation to the waiver required in order to accept an offer of a redress payment, section 46(2) is not to be treated as applying to the nominated beneficiary by reason of the applicant having previously signed a waiver,
 - (c) the nominated beneficiary may not make a further nomination under section 65,
 - (d) the nominated beneficiary may not, in that capacity, apply for emotional or psychological support under any arrangements which may be made under section 90.
- (4) Where a nominated beneficiary takes over an application after a panel appointed under section 35 to determine the application or, as the case may be, a review panel appointed under section 55 to conduct a review, has already done so, section 60 applies as if—
 - (a) subsection (4) of that section required the panel to make a determination under that subsection as soon as reasonably practicable after the nominated beneficiary takes over the application, and
 - (b) subsection (1) of that section applied to a conviction which occurred or a sentence which was imposed before the date of the determination to take place by virtue of paragraph (a).