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

2021 asp 15

PART 4

FINANCIAL REDRESS: REDRESS PAYMENTS

CHAPTER 2

REVIEW OF REDRESS PAYMENT DETERMINATIONS

54 Right to a review

(1) This section applies where—

(a) an applicant has received notification of a determination under section 36, and

(b) where an offer of a redress payment was made under that section, the applicant has not brought the application to an end by accepting the offer.

(2) The applicant may request a review of the determination to the extent that it is a determination that—

(a) the applicant is not eligible for a redress payment under section 37(2),

(b) the applicant is to be offered a particular amount by way of an individually assessed payment, or

(c) a particular amount is to be deducted in accordance with section 42 from the redress payment offered to the applicant (including where the amount to be deducted is such that the redress payment is reduced to zero).

(3) 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 determination 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

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(e) contain or be accompanied by any information the applicant considers relevant.

(4) 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.

(5) A review may be conducted despite the request for it not being made within the period mentioned in subsection (3)(b) if Redress Scotland is satisfied that the applicant has a good reason for not requesting a review sooner (whether or not the application to which it relates is one which has been brought to an end by virtue of section 49(2)).

(6) The Scottish Ministers must publicise any requirements which are for the time being set under subsection (3)(c).

Commencement Information

I1 S. 54 in force at 7.12.2021 by S.S.I. 2021/419, **reg. 2**

55 Review panels

(1) A request for a review is to be determined on behalf of Redress Scotland by a panel of members of Redress Scotland appointed by the chairing member in accordance with this section ("a review panel").

(2) A review panel—

(a) is to consist of at least 3 members,

(b) must not include any member of the panel whose determination is the subject of the request for a review.

Commencement Information

I2 S. 55 in force at 7.12.2021 by S.S.I. 2021/419, **reg. 2**

56 Procedure for a review

(1) The review panel appointed under section 55 to conduct the review—

(a) may invite oral representations to be made if the panel considers it necessary,

(b) otherwise, is to determine the review on the basis of—

(i) the evidence on which the determination which is the subject of the request for a review was made, and

(ii) any further relevant evidence which is provided to or obtained by the review panel, including any information contained in or accompanying the request for a review and any written representations which are made to the review panel.

(2) The procedure for conducting a review is otherwise to be determined by Redress Scotland.

Commencement Information

I3 S. 56 in force at 7.12.2021 by S.S.I. 2021/419, **reg. 2**

57 Outcome of a review

(1) On a review, the review panel appointed under section 55 to conduct it must consider—

(a) whether the panel appointed under section 35 to determine the application in question ought to have reached a different determination, and

(b) in a case where additional evidence is provided to or obtained by the review panel, whether the application ought to be determined differently as a result.

(2) The review panel may not—

(a) reverse or vary a determination under section 36 that an applicant is eligible for a redress payment,

(b) determine that an applicant is to be offered a lower amount by way of an individually assessed payment than the applicant was offered under section 36, or

(c) determine that more is to be deducted in accordance with section 42 from the redress payment offered to the applicant than was determined under section 36.

(3) But the review panel may otherwise uphold, reverse or vary any part of the determination (whether the request for a review relates to that part of it or not).

(4) Subsections (4) and (7) of section 36 apply to a determination as upheld, reversed or varied as they apply to a determination made under section 36, subject to the modification that references to the panel appointed under section 35 to determine the application are to be read as references to the review panel appointed under section 55 to conduct the review.

(5) 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

(b) provide the applicant with—

(i) a summary, provided by Redress Scotland, of the review panel's reasons for reaching that determination, and

(ii) where an offer of a redress payment is made (whether by upholding, reversing or varying the determination of the panel appointed under section 35), information about the period for which the offer remains valid under section 58 and the options available to the applicant in respect of it.

(6) The determination of the review panel under this section is final.

(7) In this section, the "application in question" means the application under section 29, the determination of which is the subject of the request for a review.

Commencement Information

I4 S. 57 in force at 7.12.2021 by S.S.I. 2021/419, **reg. 2**

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58 Period for which offer valid following a review

(1) An applicant to whom an offer of a redress payment is made on a review (whether by upholding, reversing or varying the determination of the panel appointed under section 35) may bring the application to an end by accepting the offer in accordance with section 50(1).

(2) If the offer is not so accepted 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 review panel appointed under section 55 to conduct the review 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 review panel determines.

(4) Where an application is treated as having been brought to an end by virtue of subsection (2), the review panel previously appointed under section 55 to conduct the review in relation to 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 on a review of the application is also revived, and

(b) the period for which the revived offer is valid is such period as the panel determines.

Commencement Information

I5 S. 58 in force at 7.12.2021 by S.S.I. 2021/419, **reg. 2**

59 Withdrawal of review request

(1) A request for a review may be withdrawn at the request of the applicant at any time prior to a determination being made under section 57.

(2) A request under subsection (1) must be made in writing to the Scottish Ministers.

(3) The Scottish Ministers must, as soon as reasonably practicable after receiving a request under subsection (1), inform Redress Scotland of it.

(4) Where Redress Scotland is informed of a request made under subsection (1), Redress Scotland must bring to an end any further determination of the review to which the request relates.

(5) Where a request for a review is withdrawn, no further request for a review may be made in respect of the determination to which the request related unless the further request is made for a different reason.

(6) Subsection (7) applies where the withdrawn request relates to the review of a determination where an offer of a redress payment had been made under section 36.

(7) The 6 month period for which the offer remains valid under section 49(3), or any longer period which had been determined under that section prior to the request for a review being made, is to be extended by the number of days in the period—

(a) beginning with the date on which the request for a review was made, and

(b) ending with the date on which the request is withdrawn.

Commencement Information

I6 S. 59 in force at 7.12.2021 by S.S.I. 2021/419, **reg. 2**

Changes to legislation:
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