
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in connection with the redress scheme established by the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (asp 15) (“the Act”).

Section 97 of the Act makes provision for the recovery by the Scottish Ministers of payments, other than redress payments, which were made due to a “relevant error” as defined in section 97(7) (as read with section 97(8)). Recovery of redress payments which were paid due to error is provided for in section 74 of the Act.

The payments recoverable under section 97 are payments made in respect of reports commissioned under or by virtue of section 83(1) of the Act, payments made in relation to the provision of support by virtue of arrangements made under section 89 or 90 of the Act, payments made by way of reimbursement of costs and expenses by virtue of regulations made under section 91 of the Act, and payments of fees for legal work in making a redress application or in connection with a proposed application under sections 92 or 93 of the Act. Section 98(1) of the Act enables the Scottish Ministers to make regulations about or in connection with the consideration by them as to whether decisions to make payments to which section 97 of the Act applies were materially affected by error.

Regulation 1(2) defines terms for the purposes of these Regulations, including the definition of “error” and “relevant payment”.

Regulation 2 sets out the procedure for the reconsideration of decisions where Redress Scotland has, or the Scottish Ministers have, cause to believe that a decision to make a relevant payment may have been affected by error. The reconsideration is to be undertaken by a reconsideration panel comprising at least 2 members of Redress Scotland appointed by the chairing member.

Regulation 3 makes provision for the review of the outcome of the reconsideration panel’s reconsideration. This is to be determined by a review panel of at least 2 members of Redress Scotland appointed by the chairing member, but the members undertaking the review must be different to those who undertook the reconsideration.

Regulation 4 sets out the review panel’s powers on determination of the review.

Regulation 5 enables a review request to be withdrawn at any point prior to its determination by the review panel.

Impact assessments have been prepared in relation to the Act and instruments under it and will be published online at www.gov.scot.