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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2022 No.**

**The Redress for Survivors (Historical Child Abuse in Care) (Reconsideration and Review of Determinations) (Scotland) Regulations 2022**

**PART 3**

**COSTS AND EXPENSES IN CONNECTION WITH RECONSIDERATION AND REVIEW**

**Reimbursement of costs and expenses in connection with reconsideration and review**

**13.**—(1) Subject to any appropriate limit specified in paragraph (3), the Scottish Ministers must, following a request in writing on a form provided by them for that purpose, reimburse a person in respect of a relevant cost and expense reasonably incurred by or in respect of a relevant person in connection with—

- (a) a reconsideration (whether or not the reconsideration resulted in a re-determination),
- (b) a review (irrespective of whether the determination under review was upheld, reversed or varied).

(2) In this regulation, “a relevant cost and expense” is a cost and expense incurred on or after 7 December 2021—

- (a) in relation to—
  - (i) obtaining information or evidence in connection with a reconsideration or, as the case may be, a review,
  - (ii) verifying such information for the purposes of a reconsideration or, as the case may be, a review,
- (b) in relation to a relevant person who has been invited by a review panel in accordance with section 56(1) of the Act, to make oral representations for the purposes of a review—
  - (i) the travel, subsistence and accommodation costs and expenses of—
    - (aa) the relevant person, and
    - (bb) a person accompanying the relevant person,
  - (ii) the costs and expenses of making arrangements for the care of children or other dependants of—
    - (aa) the relevant person, and
    - (bb) a person accompanying the relevant person, or
- (c) in relation to any other cost and expense which the Scottish Ministers are satisfied was incurred in connection with the reconsideration or, as the case may be, the review.

(3) For the purposes of these Regulations, “the appropriate limit” in relation to a relevant cost and expense mentioned in paragraph (2)(a) means—

- (a) £50, or
  - (b) a sum greater than £50, where the Scottish Ministers consider that there are exceptional or unexpected circumstances which justify this.
- (4) Where a reimbursement request relates to a cost or expense incurred in a currency other than Sterling, the person making the request must calculate the value of the cost and expense by reference to the Sterling equivalent on the date that the cost and expense was incurred.
- (5) A reimbursement request must be made before the end of the period of 8 weeks beginning with the date on which notice of the outcome of the reconsideration or, as the case may be, the review, was received by the relevant person.
- (6) A reimbursement request may be assessed by the Scottish Ministers despite the request for it not being made within the period mentioned in paragraph (5) if the Scottish Ministers are satisfied that the person had a good reason for not making the request sooner.
- (7) On receipt of a reimbursement request, the Scottish Ministers must as soon as reasonably practicable decide—
- (a) whether any cost and expense mentioned in the request was reasonably incurred in connection with the reconsideration or review, and
  - (b) in relation to a relevant cost and expense mentioned in paragraph (2)(a), the appropriate limit of that cost and expense.
- (8) The Scottish Ministers must as soon as reasonably practicable—
- (a) notify the person who made the request of the Scottish Ministers' decision under paragraph (7), and
  - (b) provide the person with a summary of the reasons for the decision.

#### **Review of a decision in relation to a reimbursement request**

**14.—**(1) This regulation applies where a person has received notice of a decision under regulation 13(8).

- (2) The person may request a review of the decision to the extent that it is a decision that—
- (a) the person is not entitled to reimbursement of a cost and expense specified in the reimbursement request, or
  - (b) the cost and expense to be reimbursed is less than the sum requested.
- (3) A request for a review must—
- (a) be made in writing 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 decision was received by the person,
  - (c) specify why a review is being requested, and
  - (d) contain or be accompanied by any information the person 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 paragraph (3)(b) if Redress Scotland is satisfied that the person had good reason for not requesting a review sooner.

### **Reimbursement review panels**

**15.** A review requested under regulation 14 is to be determined on behalf of Redress Scotland by a panel of at least 2 members of Redress Scotland appointed by the chairing member of Redress Scotland (“a reimbursement review panel”).

### **Procedure for a reimbursement review**

**16.—**(1) The reimbursement review panel appointed under regulation 15 is to determine the review on the basis of—

- (a) the evidence on which the decision which is the subject of the request for a review was made, and
  - (b) any further relevant evidence which is provided to it 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.

### **Outcome of a reimbursement review**

**17.—**(1) On a review, the reimbursement review panel appointed under regulation 15 to conduct it must consider—

- (a) whether the Scottish Ministers ought to have reached a different decision, and
  - (b) in the case where additional evidence is provided to or obtained by the review panel, whether the reimbursement request ought to be determined differently as a result.
- (2) The review panel may uphold, reverse or vary any part of the decision (whether the request for a review relates to that part of it or not).
- (3) 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 person who requested the review of the review panel’s determination, and
  - (b) provide the person with a summary, provided by Redress Scotland, of the review panel’s reasons for reaching that determination.
- (4) The determination of the review panel under this regulation is final.

### **Withdrawal of reimbursement review request**

**18.—**(1) A request for a review made under regulation 14 may be withdrawn by a person making a withdrawal request at any time prior to the determination of the review under regulation 17.

- (2) A withdrawal request under paragraph (1) must be made in writing to the Scottish Ministers.
- (3) The Scottish Ministers must, as soon as reasonably practicable after receiving a withdrawal request under paragraph (1), inform Redress Scotland of it.
- (4) Where Redress Scotland is informed of a withdrawal request made under paragraph (1), Redress Scotland must bring to an end any further determination of the review which is the subject of the withdrawal request.
- (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 relates unless the further request is made for a different reason.