

POLICY NOTE

The Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Commencement No. 1) Regulations 2021

SSI 2021/234 (C. 13)

The above instrument was made by the Scottish Ministers in exercise of the powers conferred by section 109(2) of the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (“the 2021 Act”). The instrument is not subject to any parliamentary procedure.

Summary box

These Regulations commence aspects of the 2021 Act in preparation for the opening of the scheme (which is to take place later this year, subject to the agreement of Redress Scotland, the new independent body which will make decisions on applications for redress). This includes the provisions which establish Redress Scotland, and those which relate to financial contributions being made to the redress scheme by public authorities, voluntary organisations and others. The Regulations also commence the provisions relating to the Survivor Forum and support for applicants, as well as regulation making powers in the 2021 Act where regulations will need to be in force soon. This to ensure that these aspects of the scheme can be progressed in advance of scheme opening.

Policy Objectives

The 2021 Act establishes a financial redress scheme for survivors of historical child abuse in care in Scotland, and, in some circumstances, their next of kin. The main purpose of the scheme is to acknowledge and provide tangible recognition of the harm suffered as a result of historical child abuse whilst residing in a relevant care setting in Scotland. The Act will also provide survivors with access to some non-financial elements of redress such as emotional and psychological support. The scheme will be open for applications for whichever is the longer of five years or the day falling 2 years after the Scottish Child Abuse Inquiry publishes its final report. This period may however be extended by the Scottish Ministers by regulations.

These Regulations are the first set of commencement regulations under the 2021 Act and will commence the following provisions on 28 June 2021 in preparation for the opening of the scheme:

Section 1	Overview of Act
Section 2	Meaning of “redress scheme”
Section 3	Establishment
Section 4	Status
Section 5	Membership, procedures and powers etc.
Section 6	Independence
Section 8	Functions of the Scottish Ministers
Section 10	Provision of administrative support to Redress Scotland
Section 11	Duty on the Scottish Ministers and Redress

	Scotland to co-operate
Section 12	Sharing of information between the Scottish Ministers and Redress Scotland
Section 13	Principle of dignity, respect and compassion
Section 14	Scheme contributors
Section 15	Statement of principles in relation to contributor list
Section 16	Retrospective removal of scheme contributor from contributor list
Section 17	Financial contributions by charities
Section 23	Power to create exceptions to eligibility
Section 47	Form and content of waiver
Section 78	Power to make further provision about reconsiderations
Section 87	Confidentiality of information
Section 89	Provision of support to persons in connection with an application
Section 90	Provision of support to certain persons eligible for a payment etc.
Section 91	Reimbursement of costs incurred in connection with applications
Section 94(3) to (6)	Sections 92 and 93: further provision
Section 95(5)	Assessment, notification and review of certain fee payment requests
Section 98	Power to make further provision about payments, other than redress payments, made in error
Section 102	The Survivor Forum
Section 103	Dissolution of the National Confidential Forum
Section 106	Guidance
Schedule 1	Redress Scotland
Schedule 2	The National Confidential Forum

The policy intention is that the provisions of the 2021 Act which relate to the framework of the scheme should be commenced by this first set of Regulations, including those which establish Redress Scotland and provide for its constitution, and those which set out the split of functions under the scheme between it and the Scottish Ministers. Section 13 is also to be commenced, which will require the Scottish Ministers, Redress Scotland, scheme contributors and others to treat applicants and persons who may be considering making an application with dignity, respect and compassion.

The Regulations also commence the provisions of the 2021 Act which relate to the making of financial contributions by public authorities, voluntary bodies and others who exercise or have exercised functions in relation to the safeguarding or promotion of the welfare of children or the protection or furthering of their interests. In accordance with section 14, the Scottish Ministers must establish and maintain a list of such bodies where, in the opinion of Ministers, the contribution they will make is a fair and meaningful one. Section 17 is also to be commenced by the Regulations, the effect of which is to ensure that the making of a financial contribution to the redress scheme is to be treated for all purposes as being in furtherance of a charity's charitable purposes.

The Regulations commence a number of regulation making powers, where regulations will need to be in force in time for scheme opening or shortly afterwards. This includes sections 23, 47, 78, 91, 94(3) to (6), 95(5), and 98. They also commence the guidance making power at section 106.

The remaining provisions to be commenced by these Regulations relate to the establishment of the Survivor Forum (the function of which is to provide feedback to the Scottish Ministers and Redress Scotland on the exercise of the functions conferred on them under the 2021 Act), and the dissolution of the National Confidential Forum.

Commencement of the remaining provisions of the 2021 Act (including those which relate to the application process itself) is intended to occur later this year to allow for the full opening of the scheme.

More information about the scheme can be found in Information Notes 9 and 10 published on the Scottish Government website¹.

Consultation

The policy objectives of the 2021 Act were subject to parliamentary scrutiny as a part of the parliamentary process. The Policy Memorandum for the Bill that preceded the 2021 Act outlines the consultation undertaken on the proposals for the redress scheme². As explained, there was an initial survivor consultation in 2017, and following the commitment to develop a statutory scheme, the Scottish Government launched a pre-legislative consultation in September 2019 inviting views on specific proposals for the establishment of the redress scheme, building on the findings of the earlier survivor consultation. As these Regulations bring into force provisions of the Act, no further consultation has been carried out in relation to this instrument.

Impact Assessments

These Regulations are commencing legislation, and it is considered that no further impact assessments are required. The following assessments were carried out in relation to the Bill for the 2021 Act:

Data Protection: <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-bill-data-protection-impact-assessment-legislation/>

Human Rights: [Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Bill: human rights impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-bill-human-rights-impact-assessment-gov.scot/www.gov.scot)

Children's Rights and Wellbeing: <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-bill-childrens-rights-wellbeing-impact-assessment/>

SEA (pre-screening only): <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-bill-strategic-environmental-assessment/>

¹[Financial+Redress+-+Bill+Introduction+-+information+note+9+-+March+2021.pdf \(www.gov.scot\); https://www.gov.scot/publications/financial-redress-for-survivors-of-child-abuse-in-care-information-note-10-may-2021/.](https://www.gov.scot/publications/financial-redress-for-survivors-of-child-abuse-in-care-information-note-10-may-2021/)

² [policy-memorandum-redress-for-survivors-historical-child-abuse-in-care-scotland-bill.pdf \(parliament.scot\)](https://www.parliament.scot/publications/policy-memorandum-redress-for-survivors-historical-child-abuse-in-care-scotland-bill.pdf)

BRIA: <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-bill-business-regulatory-impact-assessment/>

EQIA: [Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Bill: equalities impact assessment - gov.scot \(www.gov.scot\)](#)

Island Communities: [Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Bill: island communities impact assessment - gov.scot \(www.gov.scot\)](#)

Fairer Scotland Duty: [Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Bill: Fairer Scotland Duty assessment - gov.scot \(www.gov.scot\)](#)

Future Proofing legislation: <https://www.gov.scot/publications/redress-survivors-historical-child-abuse-care-scotland-bill-future-proofing-legislation/>

Financial Effects

The financial effects of the 2021 Act are detailed in the BRIA and Financial Memorandum³ prepared in respect of the Bill that preceded the 2021 Act and the revised Financial Memorandum which was prepared after stage 2 of the Bill⁴.

Scottish Government
Children and Families Directorate

June 2021

³ [financial-memorandum-redress-for-survivors-historical-child-abuse-in-care-scotland-bill.pdf \(parliament.scot\)](#)

⁴ [revised-financial-memorandum.pdf \(parliament.scot\)](#)