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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 44**

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

**PART 4**

**PAYMENTS AND REIMBURSEMENTS MADE IN ERROR**

**Reconsideration of decisions to pay fees for legal work, costs and expenses**

**20.**—(1) Where Redress Scotland has, or the Scottish Ministers have, cause to believe that a decision error has occurred, it or they may refer the decision in question for reconsideration (regardless of whether or not a payment or reimbursement has been made).

(2) The decision in question is to be considered on behalf of Redress Scotland by a panel of at least 2 members of Redress Scotland appointed by the chairing member (“a reconsideration panel”).

(3) Where Redress Scotland refers a decision for reconsideration under paragraph (1), it must, as soon as reasonably practicable, inform the Scottish Ministers of the referral.

(4) Where a decision is referred for reconsideration under paragraph (1) by either Redress Scotland or the Scottish Ministers, the Scottish Ministers must, as soon as reasonably practicable—

- (a) notify the appropriate person that the decision is to be reconsidered,
- (b) notify the appropriate person of the reasons for the reconsideration, and
- (c) provide the appropriate person with information about the implications of the decision being reconsidered.

(5) The Scottish Ministers must allow the appropriate person a period of at least 8 weeks, beginning with the date on which the notice of the reconsideration was received by them, to make written representations in connection with the reconsideration.

(6) A reconsideration panel may consider written representations made later than the period mentioned in paragraph (5), if it is satisfied that the appropriate person had a good reason for not making those representations sooner.

(7) After the period of making representations under paragraph (5) has ended or, where paragraph (6) applies and representations are considered later than that period, the reconsideration panel must—

- (a) determine whether the decision in question was affected by a decision error, and
- (b) if so, re-determine it on the basis of how it would have been decided had the error not been made.

(8) Once the reconsideration panel has conducted the reconsideration, Redress Scotland must inform the Scottish Ministers who must, as soon as reasonably practicable—

- (a) notify the appropriate person of the reconsideration panel’s determination under paragraph (7)(a) and where, appropriate, its re-determination under paragraph (7)(b), and

- (b) provide the appropriate person with a summary, provided by Redress Scotland, of the reconsideration panel’s reasons for reaching that outcome.
- (9) In this regulation—
- (a) “the appropriate person” means the person to whom payment was, or was due to be, made as a result of the decision in question,
  - (b) “decision error” means an error which led to a decision to make a payment or to reimburse costs and expenses under these Regulations being made—
    - (i) incorrectly, or
    - (ii) correctly but on the basis of incorrect or misleading information, in a way which materially affected the decision,
  - (c) “the decision in question” means a decision to make a payment of fees or, as the case may be, to reimburse costs and expenses to the appropriate person under these Regulations.