
SCOTTISH STATUTORY INSTRUMENTS

2022 No. 44

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

PART 5

MODIFICATIONS OF THE ACT

Amendment of section 75 of the Act – reconsideration of determination where possible material error

24.—(1) Section 75 of the Act is amended as follows.

(2) After subsection (5) insert—

“(5A) Subsection (5B) applies where, in relation to an original determination which determined an application for a redress payment, the reconsideration panel determines under subsection (5)(b) that a person—

- (a) is eligible for a redress payment, and
- (b) is not precluded from being offered a redress payment by virtue of section 60 (as it applies by virtue of subsection (5)(b)).

(5B) In assessing the amount of the redress payment (if any) to be offered, no account is to be taken of any redress payment which has previously been paid in respect of the original determination but no entitlement to any such amount arises by virtue of section 50(2).”.

(3) In subsection (7), for paragraph (b) substitute—

- “(b) provide the relevant person with—
- (i) a summary, provided by Redress Scotland, of the reconsideration panel’s reasons for reaching that determination,
 - (ii) information in relation to the effect of the panel’s determination on a previous offer of a redress payment made under the original determination,
 - (iii) where the panel’s determination makes an offer of a redress payment, information about the period for which the offer remains valid by virtue of section 49(3) and the options available to the relevant person in respect of it.”.

(4) For subsection (8) substitute—

“(8) Where the reconsideration panel makes a determination, in relation to an original determination in respect of which a right of review still exists, that the original determination was materially affected by an error—

- (a) the reconsideration panel’s determination takes the place of the original determination, and
- (b) any review of the reconsideration panel’s determination is to be conducted under section 76.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(5) In subsection (9)—

(a) for “this section” substitute “this section and in sections 75A to 78”,

(b) after the definition of “error” insert—

““original determination” means the determination referred for reconsideration under subsection (1),”.