



Historical Institutional Abuse (Northern Ireland) Act 2019

2019 CHAPTER 31

PART 1

THE HISTORICAL INSTITUTIONAL ABUSE REDRESS BOARD

Award of compensation

12 Assessment of compensation

- (1) The amount of an award of compensation under this Part is to be assessed by the panel appointed under section 8 in accordance with this section and section 13.
- (2) The amount of compensation which may be awarded is—
 - (a) an amount of £10,000,
 - (b) an amount not exceeding £70,000 if the panel is satisfied that an additional amount is justified by the severity of the matters raised by the application, and
 - (c) an amount of £20,000 if the application is made by or in respect of a person who was sent to Australia under the programme commonly known as the “Child Migrants Programme”.
- (3) Accordingly, the maximum amount of compensation which may be awarded on an application under this Part is—
 - (a) £80,000, or
 - (b) if the application is made by or in respect of a person who was sent to Australia under the programme commonly known as the “Child Migrants Programme”, £100,000.
- (4) A person entitled to compensation under subsection (2)(c) is entitled to compensation under subsection (2)(a) or (b) only if the panel has determined that the person by or in respect of whom the application is made also suffered the abuse referred to in section 2(2)(a), (b) or (c) (abuse in institution in Northern Ireland).

Status: Point in time view as at 27/03/2020.

Changes to legislation: There are currently no known outstanding effects for the Historical Institutional Abuse (Northern Ireland) Act 2019, Cross Heading: Award of compensation. (See end of Document for details)

- (5) In a case where more than one person is entitled to compensation by virtue of section 6, the proportion of the compensation to which each person is entitled is—
- (a) the proportion which that person's share of the deceased's residuary estate bears to the total of the shares of every other person entitled to the compensation, or
 - (b) where the application is made by virtue of section 6(2) or the panel considers in the case of an application made by virtue of section 6(1) that the result which would be brought about under paragraph (a) of this subsection would not be in the interests of justice, such proportion as the panel considers would be in the interests of justice.
- (6) In the case of an application which relates to more than one institution, only one determination of an amount of compensation may be made under each of paragraphs (a), (b) and (c) of subsection (2) (or, in a case of the kind mentioned in subsection (5), only one determination under each of those paragraphs in accordance with that subsection), regardless of the number of institutions concerned.
- (7) The Board may make arrangements for facilitating access for a person who is awarded compensation under this Part to advice on the financial management of the award.
- (8) The Executive Office may by order amend this section so as to increase the amount of compensation which may be awarded on an application under this Part.
- (9) An order under subsection (8) may include transitional or saving provision.
- (10) The power to make an order under subsection (8) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and an order may not be made under that subsection unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

Commencement Information

II S. 12 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

13 Actuarial adjustment of award

- (1) This section applies in a case where—
- (a) an award of compensation is made under this Part, but
 - (b) compensation for having suffered the abuse in question has previously been paid to or in respect of the person who suffered it, and
 - (c) the amount of compensation awarded under this Part exceeds the amount of compensation referred to in paragraph (b).
- (2) The reference in subsection (1)(b) to the payment of compensation is a reference to the payment of compensation—
- (a) in proceedings on a claim,
 - (b) in settlement of a claim (whether or not proceedings on the claim were brought before a court),
 - (c) under a scheme established under a statutory provision, or
 - (d) from any other source.

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- (3) The panel appointed under section 8 may adjust the amount of the award of compensation under this Part by taking the following two steps.
- (4) The first step is to determine the value of the amount of compensation referred to in subsection (1)(b) by using the ratio published by the Treasury and known as the Gross Domestic Product deflator by reference to the period—
 - (a) beginning with the date on which that compensation was paid, and
 - (b) ending with the date on which the establishment of the Board was advertised in the Belfast Gazette.
- (5) The second step is to deduct from the amount of the award of compensation under this Part an amount equivalent to the value determined under subsection (4).
- (6) In this section, “statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Commencement Information

I2 S. 13 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

14 Initial payment of award

- (1) This section applies in the case of an application for compensation for having suffered the abuse referred to in section 2(2)(a), (b) or (c) (abuse in an institution in Northern Ireland).
- (2) Where the panel appointed under section 8 determines that compensation should be awarded but has yet to determine the amount of compensation, it may, if it considers it appropriate to do so in all the circumstances, order the amount of £10,000 to be paid as compensation under section 12(2)(a) pending the completion by the panel of its determination of the amount of compensation.
- (3) Where an order has been made under subsection (2) and the total compensation subsequently awarded on the application exceeds £10,000, the panel must order an amount equivalent to the excess to be paid as compensation.
- (4) If the amount of the award of compensation is adjusted under section 13, the reference in subsection (3) of this section to the total compensation awarded is a reference to the total of the award after the adjustment is made.

Commencement Information

I3 S. 14 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

15 Status etc of award

- (1) An award of compensation under this Part is to be paid—
 - (a) as a single lump sum, or
 - (b) if the award is by way of two payments in accordance with section 14, as a lump sum for each payment.

Status: Point in time view as at 27/03/2020.

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- (2) An award of compensation under this Part does not give rise to a charge to any tax or to a liability to pay national insurance contributions.
- (3) An award of compensation under this Part is to be disregarded for the purposes of an assessment of a person's eligibility for a social security benefit the entitlement to which depends on the carrying out of a means test.
- (4) An award of compensation under this Part is to be disregarded for the purposes of an assessment of a person's ability to pay under regulations made under Article 36(6) or 99(5) of the Health and Personal Social Services (Northern Ireland) Order 1972 (cost of providing residential accommodation).
- (5) An award of compensation under this Part is to be disregarded for the purposes of an assessment of a person's financial resources under—
 - (a) Part 3 of the Legal Aid Advice and Assistance (Northern Ireland) Order 1981, or
 - (b) regulations under Part 2 of the Access to Justice (Northern Ireland) Order 2003.
- (6) A person who is notified under section 9(7) that the person is entitled to an award of compensation on an application under this Part, or on whose application a payment is ordered to be made under section 14(2), may not bring proceedings on a claim for compensation based on matters to which the application relates.

Commencement Information

I4 S. 15 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

Status:

Point in time view as at 27/03/2020.

Changes to legislation:

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