



Historical Institutional Abuse (Northern Ireland) Act 2019

2019 CHAPTER 31

PART 1

THE HISTORICAL INSTITUTIONAL ABUSE REDRESS BOARD

Entitlement to compensation

2 Entitlement to claim compensation

- (1) An application for compensation under this Part may be made by or in respect of a person who suffered abuse while a child and while resident in an institution at some time between 1922 and 1995 (both inclusive); but this is subject to sections 3 and 4.
- (2) A reference to having suffered abuse is a reference to—
 - (a) having suffered sexual, physical or emotional abuse or neglect or maltreatment,
 - (b) having witnessed one or more other children suffer abuse of a kind referred to in paragraph (a),
 - (c) having otherwise been exposed to a harsh environment, or
 - (d) having been sent to Australia under the programme commonly known as the “Child Migrants Programme”.
- (3) “Institution” means an institution in Northern Ireland in which a body, society or organisation with responsibility for the care, health and welfare of children provided residential accommodation for children, took decisions about them and made provision for their day-to-day care.
- (4) A reference to an institution does not include a reference to an institution at which education was provided, other than—
 - (a) a school certified under the Children Act 1908,

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- (b) a training school under the Children and Young Persons Act (Northern Ireland) 1950 or 1968,
 - (c) a Borstal institution, or
 - (d) a young offenders centre under the Treatment of Offenders Act (Northern Ireland) 1968.
- (5) A reference to being resident in an institution includes a reference to being absent from the institution while under the care of—
- (a) the body, society or organisation which provided residential accommodation for the child in the institution, or
 - (b) a person authorised by that body, society or organisation.
- (6) But subsection (5) does not apply to a case within subsection (2)(c); and subsection (2)(c) is accordingly to be read as referring only to a person who was exposed to a harsh environment while in the institution in question.
- (7) The reference in subsection (1) to a person who suffered abuse while resident in an institution is, in a case within subsection (2)(d), to be read as a reference to a person who was resident in an institution immediately before being sent to Australia as mentioned in that provision.

Commencement Information

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

3 Restrictions on entitlement to claim compensation

- (1) An application for compensation under this Part may not be made in respect of a person who died before 28 April 1953.
- (2) An application for compensation for having suffered the abuse referred to in section 2(2)(d) may be made under this Part only—
- (a) in respect of a person who died on or after 28 April 1953 and before 1 March 2018,
 - (b) in respect of a person who died on or after 1 March 2018 and in respect of whom compensation has not been awarded, and no application for compensation is pending, under the IICSA scheme for having suffered that abuse, or
 - (c) by a person who has not been awarded compensation, and who does not have an application for compensation pending, under the IICSA scheme for having suffered that abuse.
- (3) Subsection (2)(b) or (c) does not prevent an application for compensation for having suffered the abuse referred to in section 2(2)(d) being made under this Part if the applicant withdraws the application under the IICSA scheme.
- (4) In this section, “the IICSA scheme” means a scheme for compensation established by Her Majesty's Government in the United Kingdom in response to the inquiry established under section 1 of the Inquiries Act 2005 and known as the Independent Inquiry into Child Sexual Abuse.

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Commencement Information

I2 S. 3 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

4 Exclusions from entitlement to claim compensation

- (1) An application for compensation may (subject to subsections (3) to (5)) not be made under this Part by or in respect of a person who suffered abuse if—
 - (a) a court has dismissed a claim arising from a relevant matter brought by or in respect of that person, or
 - (b) proceedings on a claim arising from a relevant matter brought by or in respect of that person against a government department (including a Northern Ireland department) or other public body or any other body, society or organisation are pending before a court.
- (2) A “relevant matter” is a matter on which an application for compensation under this Part could be based, but for subsection (1)(a) or (b).
- (3) Subsection (1)(a) does not apply if the claim in question was dismissed solely because the period of limitation for bringing proceedings on the claim had expired.
- (4) Subsection (1)(b) does not prevent an application for compensation being made under this Part if the claimant withdraws the claim in question.
- (5) An application for compensation may be made under this Part despite subsection (1) (a) or (b) if it relates to abuse suffered in an institution managed by a body, society or organisation other than a body, society or organisation which managed any institution to which the claim referred to in subsection (1)(a) or (b) related.
- (6) The reference in subsection (5) to managing an institution is a reference to providing residential accommodation in that institution.

Commencement Information

I3 S. 4 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

5 Application for compensation

- (1) An application for compensation under this Part must be made to the Board.
- (2) The application must be made before the end of the period of five years beginning with the date on which the establishment of the Board is advertised in the Belfast Gazette.
- (3) In the case of each person by or in respect of whom an application for compensation under this Part for the person having suffered abuse may be made—
 - (a) only one application may be made, but
 - (b) that application may relate to more than one institution.
- (4) The application must be made in accordance with such provision as may be made in rules.

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- (5) Rules must include provision for the material which may be provided in support of an application for compensation under this Part to include material in the form of audio or video recordings.

Commencement Information

I4 S. 5 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

6 Entitlement to claim compensation in respect of deceased person

- (1) In the case of a person who died on or after 28 April 1953, an application for compensation under this Part may (subject to subsection (2)) be made only by—
- (a) the deceased's surviving spouse, civil partner or cohabiting partner, if that person is a residuary beneficiary of the deceased's estate;
 - (b) any surviving child of the deceased, if that person is a residuary beneficiary of the deceased's estate.
- (2) In a case where the surviving spouse, civil partner or cohabiting partner, or a surviving child, of a person who died on or after 28 April 1953 is a beneficiary of the deceased's estate, but not a residuary beneficiary, a panel appointed by the President of the Board may, on behalf of the Board, agree to receive an application for compensation under this Part from that person if the panel considers that it would be in the interests of justice to do so.
- (3) An application for compensation under this Part may be made jointly by two or more of the persons entitled to apply under subsection (1) or (2); and, in the case of such an application, any reference in this Act to a person making an application under this Part is to be read as a reference to those persons acting jointly.
- (4) Where an applicant for compensation under this Part dies before the application is determined, the application may continue to proceed in accordance with provision made in rules.
- (5) A person is the surviving cohabiting partner of a deceased person if, immediately before the death, they were not married to, or civil partners of, each other but were living together as if they were.
- (6) A reference in this section to a residuary beneficiary of a deceased person's estate is a reference to a person who is a beneficiary of some or all of the deceased's residuary estate under the deceased's will or under the law of intestacy in the country or territory in which the deceased was residing at the time of death.
- (7) A reference in this section to a beneficiary of a deceased person's estate other than a residuary beneficiary is to be read in light of subsection (6).
- (8) In this section, “child”, in relation to a person, does not include a step-child of that person or a child of that person's civil partner or cohabiting partner; and a reference in this section to a child is not limited to a person aged under 18.
- (9) A panel appointed under subsection (2) is to consist of—
- (a) one judicial member of the Board, who is to be the chair of the panel, and
 - (b) two other members of the Board, neither of whom is a judicial member.

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Commencement Information

I5 S. 6 in force at 27.3.2020 by S.R. 2020/48, art. 2(a)

Changes to legislation:

There are currently no known outstanding effects for the Historical Institutional Abuse (Northern Ireland) Act 2019, Cross Heading: Entitlement to compensation.