



# Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021

2021 asp 15

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 11th March 2021 and received Royal Assent on 23rd April 2021**

An Act of the Scottish Parliament to establish a scheme of financial redress and related support for and in respect of survivors of historical child abuse in certain residential care settings in Scotland; to establish Redress Scotland and provide for its functions; to make provision for reporting by certain persons in relation to their redress activity; to make provision for the establishment of the Survivor Forum and the dissolution of the National Confidential Forum; and for connected purposes.

## PART 1

### OVERVIEW AND MEANING OF “REDRESS SCHEME”

#### 1 Overview of Act

- (1) This Act is arranged as follows.
- (2) This Part provides an overview of all the redress-related activity provided for by this Act and defines the “redress scheme”.
- (3) Part 2 makes provision—
  - (a) establishing Redress Scotland,
  - (b) about the functions of Redress Scotland and the Scottish Ministers in relation to the redress scheme,
  - (c) requiring a list of contributors to the redress scheme to be established and maintained, and
  - (d) to facilitate charities becoming scheme contributors where they wish to do so.
- (4) Part 3 makes provision—
  - (a) about the core eligibility criteria which must be met for a person to apply for a redress payment, and
  - (b) about the further eligibility criteria which apply when the person who was abused has died and the person's next of kin wishes to make an application.

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**Changes to legislation:** There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

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(5) Part 4 makes provision—

- (a) about the requirements which apply to applications for a redress payment and how Redress Scotland will determine such applications,
- (b) about the different types of redress payments which can be offered (a fixed rate payment, an individually assessed payment or a next of kin payment),
- (c) for certain previous payments made in respect of abuse to be deducted from any redress payment which is offered,
- (d) for the signature of a waiver to be required where an applicant wishes to accept a redress payment,
- (e) about how long an offer of a redress payment is to remain valid, and how payment is to be made where the offer is accepted,
- (f) for a right to a review in respect of the determination of an application for a redress payment,
- (g) about how applications will be determined where the person who would otherwise be offered the redress payment, or (if not the same person) the person who was abused, has a serious criminal conviction,
- (h) about what will happen if the applicant dies,
- (i) for the recovery of redress payments made in error and the reconsideration of determinations which may have been materially affected by error,
- (j) about how information required or provided in relation to an application is to be obtained, shared, and kept confidential.

(6) Part 5 makes provision—

- (a) about the provision of support in connection with applications,
- (b) about the provision of support to certain persons following an application under this Act or under the advance payment scheme,
- (c) requiring the making of regulations about the reimbursement of costs and expenses associated with an application,
- (d) about the payment of fees for legal work in connection with applications,
- (e) for the recovery of payments, other than redress payments, made in error.

(7) Part 6 makes provision about the reporting that is or can be required of scheme contributors and certain other persons in relation to their redress activity.

(8) Part 7 makes provision—

- (a) for the establishment of the Survivor Forum,
- (b) for the dissolution of the National Confidential Forum,
- (c) for the dissolution of Redress Scotland once the redress scheme has ended,
- (d) about the interpretation of this Act,
- (e) for the issuing of guidance and the making of regulations,
- (f) for the commencement of this Act and about its short title.

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**Commencement Information**

**II** [S. 1](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

**Changes to legislation:** There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

## 2 Meaning of “redress scheme”

In this Act, the “redress scheme” means the scheme established by this Act for financial redress and related support for and in respect of survivors of historical child abuse in relevant care settings in Scotland.

### Commencement Information

**I2** [S. 2](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

## PART 2

### OPERATION OF THE REDRESS SCHEME

#### *Redress Scotland*

## 3 Establishment

- (1) Redress Scotland (in Gaelic, Ceartaich Alba) is established.
- (2) Redress Scotland is a body corporate.
- (3) Redress Scotland has the functions conferred on it under or by virtue of this Act and any other enactment.

### Commencement Information

**I3** [S. 3](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

## 4 Status

- (1) Redress Scotland—
  - (a) is not a servant or agent of the Crown,
  - (b) does not enjoy any status, immunity or privilege of the Crown.
- (2) Redress Scotland's members and staff are not to be regarded as civil servants.

### Commencement Information

**I4** [S. 4](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

## 5 Membership, procedures and powers etc.

Schedule 1 makes provision—

- (a) about the membership, staffing, procedures, powers and duties of Redress Scotland,
- (b) for the modification of other Acts so that their provisions apply to Redress Scotland.

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**Changes to legislation:** There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

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#### Commencement Information

**I5** [S. 5](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

## 6 Independence

- (1) In performing the functions conferred on it under or by virtue of this Act, Redress Scotland is not subject to the direction or control of any member of the Scottish Government.
- (2) Subsection (1) is subject to any contrary provision in this or any other enactment.

#### Commencement Information

**I6** [S. 6](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

### *Functions in relation to the redress scheme*

## 7 Functions of Redress Scotland

Redress Scotland has the general function of making determinations in connection with applications by individuals under the redress scheme, including determining—

- (a) applications for redress payments,
- (b) requests for a review of a determination,
- (c) referrals for reconsideration of a determination where the determination may have been materially affected by an error.

#### Commencement Information

**I7** [S. 7](#) in force at 7.12.2021 by [S.S.I. 2021/419](#), [reg. 2](#)

## 8 Functions of the Scottish Ministers

The Scottish Ministers have, in relation to the redress scheme, the general functions of—

- (a) making administrative arrangements for the establishment and operation of the redress scheme,
- (b) providing information, guidance and support to individuals in connection with applications under the redress scheme.

#### Commencement Information

**I8** [S. 8](#) in force at 28.6.2021 by [S.S.I. 2021/234](#), [reg. 2](#), [sch.](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021. (See end of Document for details)

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## **9 Duty with respect to ensuring individuals can make informed choices**

- (1) In exercising their functions under paragraph (b) of section 8, the Scottish Ministers must use their best endeavours to ensure that persons who—
  - (a) are, or may be, considering making an application for a redress payment, or
  - (b) have decided to make, or have made, such an application,have the opportunity to make informed choices.
- (2) Accordingly, the Scottish Ministers must prepare and publish a statement setting out information about—
  - (a) the options available to such persons at each stage of the process of making an application for a redress payment,
  - (b) the support and other assistance available to such persons under the redress scheme, and
  - (c) the redress for survivors of historical child abuse in care in Scotland, including financial redress, which may be available to such persons otherwise than under the redress scheme.
- (3) The statement (the “summary of options”) must include, or set out details of where to find, information about—
  - (a) the options a person has in relation to—
    - (i) making, pausing and withdrawing an application for a redress payment,
    - (ii) accepting an offer of a redress payment, including the timescales for so doing, and the effect of signing and returning a waiver,
    - (iii) requesting a review of a determination made by Redress Scotland,
  - (b) the sources and types of information or evidence that an application for a redress payment may or must contain or be accompanied by,
  - (c) how such information and evidence may be obtained and shared, in particular the assistance available under the scheme in connection with obtaining such information and evidence,
  - (d) the importance of obtaining independent legal advice, in particular before accepting an offer of a redress payment and signing and returning a waiver,
  - (e) the availability, under the redress scheme, of payment of fees for legal work in connection with applications, and
  - (f) the support available under the scheme in connection with applications for redress payments.
- (4) The summary of options may include such other information as the Scottish Ministers consider appropriate.
- (5) The Scottish Ministers must keep the summary of options under review and may modify it from time to time.
- (6) In complying with their duty under subsection (5), the Scottish Ministers must have regard to any recommendations included, by virtue of paragraph 17(2) of schedule 1, in an annual report prepared by Redress Scotland.
- (7) If the Scottish Ministers modify the summary of options, they must publish the modified summary.