

Draft Order laid before the Scottish Parliament under section 253B(7) of the Criminal Procedure (Scotland) Act 1995, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

CRIMINAL LAW

The Restitution Fund (Scotland) Order 2021

Made - - - - 2021
Coming into force - - 10th February 2021

The Scottish Ministers make the following Order in exercise of the powers conferred by section 253B(5) and (6) of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 253B(7) of that Act, a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Restitution Fund (Scotland) Order 2021 and comes into force on 10 February 2021.

Interpretation

2. In this Order—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995,

“the Fund” means the Restitution Fund established, maintained and administered under section 253B(3) of the 1995 Act and this Order,

“the operator” means the Scottish Police Benevolent Fund, a Scottish charitable incorporated organisation with registered number SC043489,

“relevant person” means a person who provides or secures the provision of support services for victims.

(1) 1995 c.46. Section 253B was inserted by the Victims and Witnesses (Scotland) Act 2014 (asp 1), section 25.

The delegation of the establishment, maintenance and administration of the Restitution Fund

3. The Scottish Ministers delegate the establishment, maintenance and administration of the Fund to the operator.

The administration of the Restitution Fund

4.—(1) The Fund must be administered by the operator in accordance with articles 4 to 7.

(2) Subject to paragraphs (3) and (4), the Scottish Ministers must prepare and publish guidance about the operation of the Fund.

(3) The first guidance prepared and published under paragraph (2) must be—

(a) published by the date falling six months after this Order comes into force, and

(b) laid before the Scottish Parliament as soon as reasonably practicable thereafter.

(4) The guidance prepared and published by the Scottish Ministers under paragraph (2) may be revised by the Scottish Ministers from time to time.

(5) In the establishment, maintenance and administration of the Fund, the operator must have regard to—

(a) the need to promote equality and diversity,

(b) the need to prevent discrimination, harassment and victimisation on grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation, and

(c) the guidance prepared and published by the Scottish Ministers under paragraph (2).

Making payments out of the Fund

5.—(1) No payments may be made from the Fund by the operator prior to the date falling six months after this Order comes into force.

(2) A payment from the Fund may only be made by the operator to a relevant person where—

(a) the relevant person has made a written application to the operator for payment, and

(b) the operator has approved that application for payment.

(3) Without prejudice to the operator's ability to approve or reject applications for payment from the Fund, the operator may reject an application for payment from the Fund where the operator considers that there are insufficient monies in the Fund.

(4) Subject to paragraph (5), payments made from the Fund in accordance with paragraph (2) may be made subject to such conditions as the operator considers appropriate.

(5) All payments made from the Fund in accordance with paragraph (2) must be made subject to conditions which require—

(a) the payment to be used for a specified purpose or purposes, and

(b) the recipient of the payment to repay the monies (or a portion of the monies) to the operator, in accordance with the operator's requirements, if a condition attaching to the payment is not complied with.

(6) For the purposes of paragraph (2), a written application includes an application submitted to the operator electronically.

Record-keeping

6.—(1) The operator must keep records of—