

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill – Stage 3

After section 8

Daniel Johnson

5A As an amendment to amendment 5, line 23, at end insert—

- <() the sources and types of information or evidence that an application for a redress payment may or must contain or be accompanied by,
- () 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.>

Section 16

Daniel Johnson

34 In section 16, page 7, line 25, at end insert—

- <() For the avoidance of doubt, a person who has previously brought unsuccessful relevant civil proceedings may still apply for a redress payment.
- () In this section, “relevant civil proceedings” has the same meaning as in section 45(6) of this Act.>

Section 29

Daniel Johnson

35 In section 29, page 15, line 19, at beginning insert <subject to subsection (2A),>

Daniel Johnson

36 In section 29, page 15, line 24, at end insert—

- <(2A) If the Scottish Ministers do not lay a draft Scottish statutory instrument containing regulations under subsection (2) within the period specified in subsection (3), then the application period is extended by 2 years.>

Daniel Johnson

37 In section 29, page 15, line 25, leave out <15> and insert <6>

Daniel Johnson

38 In section 29, page 15, line 28, leave out <15> and insert <6>

Section 45

Neil Findlay

- 39 In section 45, page 22, line 33, leave out <a redress> and insert <an individually assessed>

Neil Findlay

- 40 In section 45, page 22, line 34, after <waiver> insert <either—
()>

Neil Findlay

- 41 In section 45, page 22, line 38, at end insert <, or
() where the applicant brings relevant proceedings, agreeing to make a repayment in accordance with section (*Repayment of redress payment or relevant payment*).>

After section 46

John Swinney

- 19A As an amendment to amendment 19, line 5, after first <of> insert <—
()>

John Swinney

- 19B As an amendment to amendment 19, line 6, at end insert—
<() the effectiveness of the waiver in encouraging public authorities, voluntary organisations and other persons to become scheme contributors,>

Ross Greer

- 19C As an amendment to amendment 19, line 6, at end insert—
<() whether there is any evidence to suggest that applicants who have accepted a redress payment would have received a higher amount in an award of damages compensation by court or other payment in settlement of a claim had they pursued relevant civil proceedings (within the meaning given by section 45(6)),>

Ross Greer

- 42 After section 46, insert—
<Disapplication of the waiver in relation to claims against the Scottish Ministers and local authorities
(1) A waiver signed by virtue of section 45 does not prevent an applicant from continuing or bringing civil proceedings against any organisation listed in subsection (2).
(2) The organisations to which subsection (1) applies are—
(a) the Scottish Ministers,

- (b) a local authority.
- (3) The Scottish Ministers may by regulations modify subsection (2) for the purpose of adding to the list of organisations to which this section applies.>

Ross Greer

43 After section 46, insert—

<Waiver: further provision

- (1) A waiver signed by virtue of section 45 does not prevent an applicant from continuing or bringing civil proceedings unless the conditions in subsection (2) are met.
- (2) The conditions referred to in subsection (1) are—
 - (a) the applicant has received advice from a solicitor on the offer of a redress payment made under section 34 or, as the case may be, 55 and the consequences of signing a waiver on the applicant’s right to continue or bring civil proceedings, and
 - (b) the solicitor providing the advice has signed a solicitor declaration form confirming the advice has been given.
- (3) The Scottish Ministers must by regulations make provision about—
 - (a) the form and content of the solicitor declaration form,
 - (b) the information to be provided as advice to the applicant by the solicitor in relation to the waiver and its effects.>

Section 47

Ross Greer

44 In section 47, page 24, line 21, leave out <or> and insert—

- <() where the applicant has commenced civil proceedings, until the civil proceedings are concluded by settlement, abandonment of proceedings or final determination by the court, or>

After section 51

Neil Findlay

45 After section 51, insert—

<Repayment of redress payment

Repayment of redress payment

An applicant to whom a redress payment is made under section 34 or, as the case may be, 55 and who subsequently receives a relevant payment mentioned in paragraph (a) or (b) of section 41(2), must repay to Redress Scotland an amount representing whichever is the lower of—

- (a) the redress payment, and
- (b) the relevant payment.>

Section 52

Alex Neil

- 46 In section 52, page 26, line 35, at end insert—
- <() This section also applies where an applicant has received notification of a determination under section (*Circumstances in which the waiver must be disapplied*).>

Alex Neil

- 47 In section 52, page 27, line 5, at end insert <, or
- () the waiver is not to be disapplied under section (*Circumstances in which the waiver must be disapplied*).>

Section 97

Daniel Johnson

- 48 In section 97, page 58, line 3, at end insert—
- <() the length of time that should be taken to consider an application before providing a determination and, where relevant, an offer of a redress payment,>

Section 98

Ross Greer

- 49 In section 98, page 59, line 4, at end insert—
- <() section (*Disapplication of the waiver in relation to claims against the Scottish Ministers and local authorities*).>

Ross Greer

- 50 In section 98, page 59, line 4, at end insert—
- <() section (*Waiver: further provision*).>

Schedule 1

Daniel Johnson

- 51 In schedule 1, page 65, line 17, at end insert—
- <(cb) an assessment of the accessibility and suitability of guidance available to applicants on the sources and types of information or evidence that applications for redress payments may or must contain or be accompanied by, with reference to the information and evidence considered by it in determining applications,>

Daniel Johnson

- 32A As an amendment to amendment 32, line 3, leave out <and (ca)> and insert <, (ca) and (cb)>