



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

## 2021 asp 15

### PART 3

#### ELIGIBILITY AND KEY CONCEPTS

##### *Eligibility to apply for next of kin payments*

#### **24 Eligibility to apply for a next of kin payment**

- (1) A person may apply for a redress payment under section 18 which takes the form of a next of kin payment only if—
  - (a) the person meets the eligibility criteria to apply for a next of kin payment, or
  - (b) the person is granted permission to apply for a next of kin payment under section 25, or on a review under section 26, due to exceptional circumstances.
- (2) A person meets the eligibility criteria to apply for a next of kin payment where—
  - (a) the person is the specified next of kin of someone who died on or after 1 December 2004 (“the deceased person”),
  - (b) the deceased person would, if alive, have been eligible to apply for a redress payment under section 18 (other than for a next of kin payment), and
  - (c) where the deceased person died on or after the day section 18 came into force, the condition in subsection (3) is met.
- (3) The condition referred to in subsection (2)(c) is that—
  - (a) the deceased person had not applied for a fixed rate payment or an individually assessed payment, or
  - (b) the deceased person had applied for such a redress payment but—
    - (i) died while the application was ongoing,
    - (ii) where the application was for an individually assessed payment, had not previously been paid a fixed rate payment, and
    - (iii) either a nominated beneficiary is not taking over, or has not taken over, the application by virtue of section 71 or, if the application was so taken over, it was brought to an end in the circumstances described

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*Status: This is the original version (as it was originally enacted).*

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in section 73(2) without the nominated beneficiary having accepted any redress payment in respect of the application.

- (4) For the purpose of subsection (3)(b)(i), whether an application is ongoing is to be determined in accordance with section 66(6) and (7).