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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2019 No.**

**The Victim Surcharge (Scotland) Regulations 2019**

**PART 2**

**The Victim Surcharge Fund**

**The administration of the Victim Surcharge Fund**

- 5.—(1) The Fund must be administered by the Scottish Ministers in accordance with this Part.
- (2) 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 25 May 2020, and
  - (b) laid before the Scottish Parliament as soon as reasonably practicable after publication.
- (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) Where the guidance is revised by the Scottish Ministers under paragraph (4), the revised guidance must be laid before the Scottish Parliament as soon as reasonably practicable after it has been revised.
- (6) In the administration of the Fund, the Scottish Ministers must have regard to the need to—
- (a) promote equality and diversity, and
  - (b) prevent discrimination, harassment and victimisation on the basis of any of the protected characteristics listed in section 4 of the Equality Act 2010.

**Making payments out of the Fund**

- 6.—(1) No payments may be made from the Fund prior to 25 May 2020.
- (2) A payment from the Fund may only be made by the Scottish Ministers to a relevant person where—
- (a) the relevant person has made a written application to the Scottish Ministers for payment, and
  - (b) the Scottish Ministers have approved that application for payment.
- (3) Without prejudice to the Scottish Ministers' ability to approve or reject an application for payment from the Fund, the Scottish Ministers may reject an application for payment from the Fund where the Scottish Ministers consider 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 Scottish Ministers consider 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 purpose or purposes specified by the Scottish Ministers, and

(b) the recipient of the payment to repay the monies to the Scottish Ministers, on the Scottish Ministers' demand, 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 Scottish Ministers electronically.

(7) In this regulation, "relevant person" means a person who provides or secures the provision of support services for persons who are or appear to be victims of crime.

### **Record-keeping**

7.—(1) The Scottish Ministers must keep records of—

- (a) every payment made into the Fund,
- (b) every payment made out of the Fund,
- (c) the recipients of payments made out of the Fund,
- (d) the outlays incurred in administering the Fund which have been paid to the Scottish Ministers under section 253G(4)(d) of the 1995 Act, and
- (e) the balance of the Fund.

(2) Records kept by the Scottish Ministers under paragraph (1) may be disposed of by or on behalf of the Scottish Ministers after 6 years.

### **Duty to prepare and publish reports**

8.—(1) The Scottish Ministers must prepare and publish a report on the administration of the Fund no later than—

- (a) 31 July 2021, and
- (b) 31 July in each subsequent year.

(2) The report prepared and published under paragraph (1) must include the information contained in records kept in accordance with regulation 7 for the following periods—

- (a) in relation to the report published under paragraph (1)(a), the period beginning with the first payment made from the Fund and ending on 31 March 2021, and
- (b) in relation to reports published under paragraph (1)(b), the period of 12 months prior to 31 March each year.