

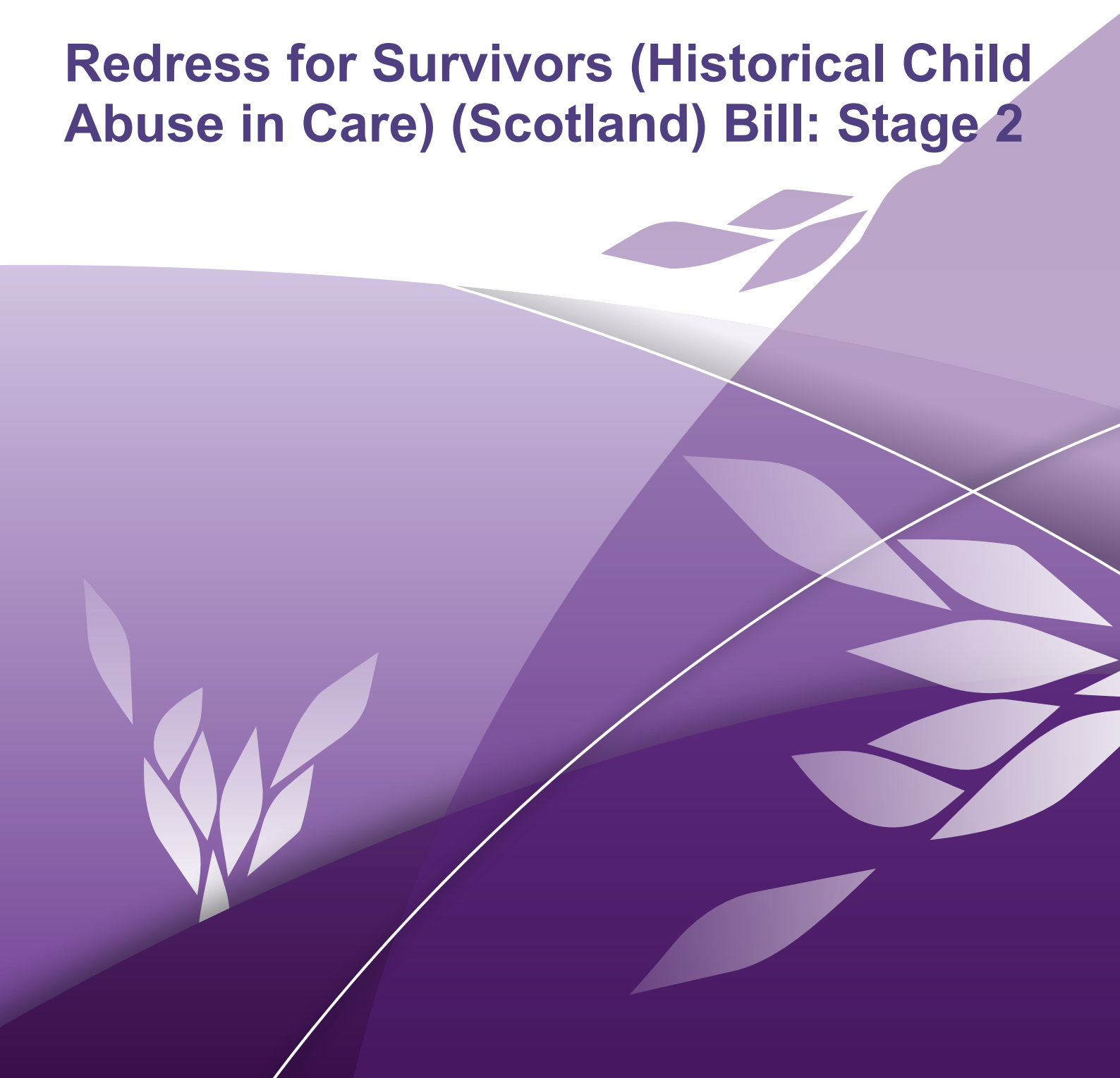


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Pàrlamaid na h-Alba

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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill: Stage 2



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Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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Introduction

1. At its meeting on 2 March 2021, the Delegated Powers and Law Reform Committee considered the delegated powers in the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Bill (“the Bill”) as amended at Stage 2.ⁱ
2. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.
3. The Bill completed Stage 2 on 17 February 2021.

ⁱ The Bill as introduced is available [here](#)

Overview of the Bill

4. This Scottish Government Bill was introduced on 13 August 2020. The lead committee is the Education and Skills Committee.
5. The Bill seeks to establish a financial redress scheme for survivors of historical child abuse in care in Scotland, and, in some circumstances, their next of kin. The main purpose of the scheme is to acknowledge and provide tangible recognition of the harm suffered as a result of historical child abuse whilst residing in a relevant care setting in Scotland. The Bill will also provide survivors with access to some non-financial elements of redress such as emotional and psychological support. There will be a five-year window during which applications can be made to the scheme. In order to retain some flexibility, this period may be extended by regulations made by the Scottish Ministers.

Delegated Powers

6. The Committee considered the delegated powers in this Bill at Stage 1 at its meetings on 24 November and 1 December 2020. It reported that it was content with the delegated powers provisions contained in the Bill and published its Stage 1 Report on the Bill on 2 December 2020ⁱⁱ.
7. The Committee notes the Scottish Government has amended the power in Section 46 – form and content of waiver – to the affirmative procedure following the Committee’s suggestion at Stage 1.
8. The Scottish Government has produced a Supplementary Delegated Powers Memorandum which describes provisions in the Bill conferring power to make subordinate legislation which were introduced to the Bill, amended or removed at Stage 2ⁱⁱⁱ. The Memorandum supplements the Delegated Powers Memorandum on the Bill as introduced^{iv}.
9. The Committee considered the supplementary delegated powers:
 - Section 18(4) – meaning of “Relevant Care Setting”
 - Section 46 – form and content of waiver
 - Section 88C(3) - power to make further provision about fee payment requests
 - Section 88C(4) - power to prescribe sum to be paid in respect of legal work undertaken in connection with an application, or potential application, for redress
 - Section 88D(5) - further provision on reviews of assessments of fee payment requests
 - Section 90B(1) - power to make further provision about payments, other than redress payments, made in error
 - Section 93A - the Survivors Forum
10. **The Committee is content with the supplementary delegated powers provisions contained in the Bill and with the choice of procedure applicable in each case.**
11. The Committee also noted the delegated powers that had been removed from the Bill at Stage 2:
 - Section 15(1) – Financial contributions by charities: restricted funds

ii [Delegated Powers and Law Reform Committee, 70th Report 2020 \(Session 5\): Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Bill: Stage 1](#)

iii The Supplementary Delegated Powers Memorandum is available [here](#)

iv The Delegated Powers Memorandum on the Bill, as introduced, is available [here](#)

- Section 88(7) – Duty on Scottish Ministers to pay certain legal fees in connection with applications
- Section 89(6) – Assessment of amount of payment
- Section 90(3) – Notification and review of payment

