



An Bille um na hInstitiúidí (Daoine Éagtha - Leasú) 2024
The Institutions (Pre-deceased Persons – Amendment) Bill 2024

Mar a tionscnaíodh
As initiated



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Acts Referred To:

The Residential Institutions Redress Act 2002

The Mother and Baby Institutions Payment Scheme Act 2023

The Magdalen Restorative Justice Ex-Gratia Scheme (including any Regulations or Orders creating the Scheme):

Redress for Women Resident in Certain Institutions Act 2015¹

Redress for Women Resident in certain Institutions (Amendment) Act 2019²

Terms of the ex gratia Magdalen Restorative Justice Scheme established by the Irish Government in December 2013

Addendum to the Terms of the Magdalen Restorative Justice ex gratia Scheme, established by the Irish Government in November 2018

Succession Act 1965³ (including the Small Estates Procedures)

Charities Act 2009⁴

¹ <https://www.irishstatutebook.ie/eli/2015/act/8/enacted/en/html>

² <https://www.irishstatutebook.ie/eli/2019/act/26/enacted/en/pdf>

³ <https://www.irishstatutebook.ie/eli/2009/act/6/enacted/en/print#sec3>

⁴

<https://www.irishstatutebook.ie/eli/2009/act/6/enacted/en/print#:~:text=AN%20ACT%20TO%20PROVIDE%20FOR,OF%20THE%20COMMISSIONERS%20OF%20CHARITABLE>



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The Institutions (Pre-deceased Persons – Amendments) Bill 2024

Bill

Entitled

An Act to make provisions, relating to the historical issues arising from the Industrial Schools, Mother and Baby Homes, Magdalen Laundries and associated or related Institutions and to the State apologies provided for these Institutions. Upon publication of inquiries into the Institutions to which this Act applies, provisions were made to exclude those persons who had pre-deceased the said State apologies and their personal representatives from making applications for payments arising from the related Redress Schemes which were introduced following the said State apologies. This Bill provides amendments to the said Redress schemes and their enabling Acts to provide the personal representatives of the said pre-deceased persons to apply on behalf of those pre-deceased persons for recognition, the payment of an ‘in memoriam’ payment to be made to a designated charity in the name of that pre-deceased person. The Bill also provides for the personal representatives of pre-deceased persons to receive a copy of the relevant State apology for the relevant Institution or Institutions, to be co-signed by Uachtarán na hÉireann and An Taoiseach.

To be enacted by the Oireachtas as follows:

Section 1 – Definitions:

“Designated Charity” shall mean a registered Charity which has been provided with a registered Charity status and assigned a registered Charity number granted by the Charities Regulator exercising its powers under the provisions of the Charities Act 2009

“In Memoriam Payment” shall mean a payment made in the memory of a pre-deceased person as identified under the provisions of this Act;

“Institution” shall mean an Institution as identified within Schedule 1 of this Act (this shall also include all references to “Institutions”);

“Personal Representative” shall have the same meaning as that found within Section 3 of the Succession Act 1965 (this shall also include all references to “personal representatives”);

“Pre-deceased person” shall mean a person who has died before the date of the delivery of an Irish State Apology for the experiences of those who were held within an Institution or Institutions found in Schedule 1 of this Act (this shall also include all references to pre-deceased persons”);

“Small Estates Procedures” shall mean a procedure whereby a person’s residual estate following their death amounts to €25,000 or less which can be administered without the need for a grant of probate or grant of administration as found within the Succession Act 1965;

“State Apology” shall mean an apology which has been delivered by the Irish State in satisfaction of findings of fact relating to the experiences of persons held within an Institution or Institutions as detailed in Section 2 and Schedule 1 of this Act;

“The 2002 Act” shall mean The Residential Institutions Redress Act 2002;

“The Institutions Pre-deceased Persons Additional Rights Restorative Scheme” shall mean the Scheme created under section 3 (1) of this Act to satisfy the provisions contained within this Act which benefit pre-deceased persons and their personal representatives.

Section 2 – The Acts to be amended:

The following Acts shall be amended by the provisions contained within Section 3 of this Act as follows:

2 (1). Under Section 9 of The Residential Institutions Redress Act 2002⁵ ⁶ the provisions contained within Section 3 of this Act shall be added to form new sub-sections after Section 9 (2) with the provisions contained with section 3 of this Act to be re-numbered within the 2002 Act and subsequent sub-sections in the 2002 Act to be renumbered accordingly;

⁵ https://www.rirb.ie/documents/act_13_2002.pdf

⁶ <https://www.rirb.ie/aboutus.asp>

2 (2). Under Section 37 of The Mother and Baby Institutions Payment Scheme Act 2023⁷, the section shall be amended to incorporate a new sub-section 3 which shall contain the provisions contained with Section 3 of this Act and re-numbered accordingly;

2 The provisions of The Magdalen Restorative Justice Ex-Gratia Scheme^{8 9 10} to be amended by the provisions of section 3 of this Act, in the alternative, the provisions contained within Section 6 of this Act to be applied for the making of an order or regulation to implement the provisions contained under section 3 of this Act to extend the ex-gratia scheme in support of The Magdalen Restorative Justice Ex-Gratia Scheme provisions.

Section 3 – The Amendments:

The provisions of this Section shall be applied and incorporated into the relevant Acts stated in Section 2 above or through orders or regulation created under section 6 of this Act such amendments shall be made upon commencement of this Act:

3 (1). All persons who spent any period of time (such time shall not be limited through any order or regulation made), within any Institution or Institutions as identified in Section 2 above and listed within Schedule 1, and before a State apology that person pre-deceased that State apology, they shall qualify and benefit through their personal representative for all the provisions contained within this section. The provisions of Section 3 shall be contained within a process to be identified as '*The Institutions Pre-deceased Persons Additional Rights Restorative Scheme*'. In consideration of any application made under this Section, the Minister shall have regard to:

3 (1) (i). The provisions of the Succession Act 1965 and the Small Estates Procedures, and

3 (1) (ii). The Minister shall make orders or regulations to assist in the making of those applications where so required;

3 (2). Any such pre-deceased person as identified in Section 3 (1) above shall receive an 'in memoriam' payment in addition to a copy of the State apology that was provided after their death;

3 (3). A pre-deceased persons personal representative may apply for the 'in memoriam' payment and for a copy of the relevant State apology as detailed in

⁷ <https://www.irishstatutebook.ie/eli/2023/act/20/section/37/enacted/en/html#sec37>

⁸ <https://www.gov.ie/en/service/8fe41a-the-magdalen-restorative-justice-ex-gratia-scheme/#:~:text=The%20relevant%20application%20form%20should,with%20the%20requested%20support%20documents.>

⁹ Terms of the ex gratia Magdalen Restorative Justice Scheme established by the Irish Government in December 2013

¹⁰ Addendum to the Terms of the Magdalen Restorative Justice *ex gratia* Scheme, established by the Irish Government in November 2018

section 3 (2) above on behalf of the predeceased person as identified in section 3 (1) above;

3 (4). Upon application for an ‘in memoriam’ payment, the personal representative of the predeceased person shall identify a charity (“designated charity”) of their choosing to enable any ‘in memoriam’ payment to be made directly to that charity;

3 (5). An ‘in memoriam’ payment shall be made, following an application made under section’s 3 (3) & (4) and following a notice provided by the Minister that they are satisfied that the pre-deceased person qualifies under section 3 (1). Any payment made shall be done so under the conditions outlined in section 3 (4) and the Minister shall:

3 (5) (i). Make an ‘in memoriam’ payment to the designated charity chosen under the terms of section 3 (4) in the pre-deceased person’s full name and where relevant, their full religious name where known, and

3 (5) (ii). The ‘in memoriam’ payment shall be in the sum of €25,000 and be paid by the Minister directly to the designated Charity, and

3 (5) (iii). The Minister shall provide to the personal representative of the pre-deceased person with a record of the payment and receipt of the ‘in memoriam’ payment to the said designated Charity, and

3 (5) (iv). The Minister shall also deliver to the personal representative of the pre-deceased person, a full written copy of the relevant State apology for the Institution or Institutions as identified in section’s 2 & 3 (1) which shall be signed by Uachtarán na hÉireann and An Taoiseach;

3 (6). No personal representative in making an application on behalf of a pre-deceased person under section 3 of this Act shall be required or obligated to sign or provide a legal waiver to the Irish State as a condition to receive the benefits contained within this section on behalf of any pre-deceased person or for acting in their capacity as a personal representative.

Section 4 – The obligations of the Minister:

The Minister shall create, organise and deliver:

4 (1). Within 30 days of the commencement of this Act, create and organise a populated and comprehensive list of all Institutions that are relevant to the objects of this Act and to the interests and rights of pre-deceased persons and their personal representatives as identified under Section 3 of this Act;

4 (2). Within 30 days of the commencement of this Act, shall publish details of the commencement, application and operation of ‘The Institutions Pre-deceased Persons Additional Rights Restorative Scheme’;

4 (2). For a full report, to be delivered to the Oireachtas concerning the operation of this Act, the first report being due 12 months after the commencement of this Act and to cause for a report to be delivered on the 12 month anniversary thereafter until the conclusion of the duration of this Act, and

4 (3). The Minister shall cause for the provisions of this Act to be publicly advertised across traditional public sources and through other durable means of advertising both in the Irish Republic and within International jurisdictions for the entire duration of this Act.

Section 5 – Duration of the Act

The provisions of this Act shall operate for 25 years from the commencement of this Act.

Section 6 – Laying of Regulations and Orders

Where orders or regulations are required to be made to support this Act or the provisions of the Acts referred to in Section 2 above, such orders or regulations may contain such incidental, supplementary and consequential provisions as appear to the person making the regulations to be necessary or expedient for the purposes of the regulations, including the making of Regulations for an appeals process and they shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House. If a resolution annulling the order or regulation is passed by either such House within the next 21 days on which that House sits after the order or regulation is laid before it, the order or regulation is annulled, but without prejudice to the validity of anything previously done under it.

Section 7 – Expenses

The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of moneys sanctioned by the Oireachtas

Section 8 – Short Title and Commencement

This Act may be cited as The Institutions (Deceased Persons – Amendment) Bill 2024. This Act shall come into operation as the Minister may appoint or on [INSERT DATE] 2024.

Schedule 1 – List of Institutions

- A. List of Residential Institutions:**
- B. List of Mother and Baby Homes or Institutions:**
- C. List of Magdalen Laundries or Institutions:**