



Bill Digest

Redress for Women Resident in Certain Institutions (Amendment) Bill 2019

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Abstract

The *Redress for Women Resident in Certain Institutions (Amendment) Bill 2019* seeks to amend the *Redress for Women Resident in Certain Institutions Act 2015*, to reflect a Government decision to extend the Magdalen Restorative Justice Ex-Gratia Scheme to women who worked in a qualifying institution while residing in an adjoining institution, by way of an addendum to the scheme commenced in November 2018.

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Summary

- The *Redress for Women Resident in Certain Institutions (Amendment) Bill 2019* seeks to amend the *Redress for Women Resident in Certain Institutions Act 2015* and the *Nursing Home Support Scheme Act 2009*;
- The Magdalen Restorative Justice Ex-Gratia Scheme was established in 2013 to provide women who worked and resided in Magdalen institutions with access to both financial and health supports, including lump sum cash payments, pensions and health and community care supports free of charge. Payments made as part of the scheme are disregarded as means if applying for the Nursing Home Support Scheme;
- In 2017 the Office of the Ombudsman published a report following an investigation of the administration of the Magdalen Restorative Justice Scheme. The report made a number of recommendations, including the expansion of the terms of the scheme to include women who worked in Magdalen Laundries but resided elsewhere;
- On foot of these recommendations, the Department of Justice announced in May 2018 an addendum to the scheme, which commenced in November 2018. The addendum extends the terms of the scheme to women residing in institutions adjoining Magdalen laundries. All payments resulting from successful applications to the newly extended scheme, arising from the addendum, will be back dated to 1st August 2013.
- The scheme has made payments to 734 women to date (June 2019). This amounts to almost €30 million in payments. Ninety nine applications to the scheme have been received under the terms of the addendum.
- Stakeholders such as Justice for Magdalen Research (JFMR) had previously called for an extension of the terms of the scheme. Religious orders named in the addendum have not commented on the Bill to date.

Introduction

This Digest examines the provisions of the *Redress for Women Resident in Certain Institutions (Amendment) Bill 2019* (“the Bill”) and examines how the provisions in the *Redress for Women Resident in Certain Institutions Act 2015*¹ are amended by the provisions in the Bill. It also provides background and policy context to the Bill, outlines the potential implications of the Bill and provides stakeholder commentary, where available.

The Magdalen Restorative Justice Ex-Gratia Scheme 2013

The Magdalen Restorative Justice Ex-Gratia² Scheme (also referred to as the Magdalen Redress Scheme) was established on foot of recommendations made by Mr. Justice Quirke in the [report of the Magdalen Commission](#) in May 2013.³ The scheme is available to women who resided and/or worked in certain institutions known collectively as Magdalen laundries, also referred to as Magdalen institutions or asylums. It applied to ten Magdalen laundries and two domestic training schools, in total. The scheme is composed of two main elements:

- Financial payments, including lump sum cash payments (up to €50,000), provision of state pensions and on-going weekly payments (apportioned from the balance of a sum over €50,000, paid in weekly instalments);
- Health supports, including acute in-patient hospital services, GP and community care services, free of charge.

The full range of health services provided free of charge are:

- General Practitioner, medical and surgical services;
- Drugs, medicines and surgical appliances;
- Nursing services;
- Home help services;
- Dental, ophthalmic and aural services;
- Counselling services;
- Chiropody Services; and
- Physiotherapy services.

¹ *Redress for Women Resident in Certain Institutions Act 2015*
<http://www.irishstatutebook.ie/eli/2015/act/8/enacted/en/html>

² The term refers to action arising from a sense of moral obligation rather than any legal requirement to act.

³ *Report of the Magdalen Commission*, Mr. Justice John Quirke, May 2013

<http://www.justice.ie/en/JELR/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf/Files/2.%20THE%20MAGDALEN%20COMMISSION%20REPORT.pdf>

It also allows for the disregard of any payments made to these women as part of the Scheme, in a financial assessment of means, made under the [Nursing Home Support Scheme Act 2009](#).⁴

While the financial payments element of the Scheme had already been established, the publication of the *Redress for Women Resident in Certain Institutions Bill 2014*, made provision for the health supports element of the Scheme and the payments disregard as it applied to the Nursing Home Support Scheme.

Background and Context

In 2017, following a series of complaints made to his Office, the Ombudsman decided to undertake an investigation of the administration of the Magdalen Restorative Justice Ex-Gratia Scheme. This resulted in the publication of a report in November 2017, entitled [Opportunity Lost](#).⁵

The report examined the way in which the eligibility criteria for the Scheme were interpreted by the Department of Justice. The report suggested that as a result of the Department's "narrow" interpretation of these criteria some women who lived on the grounds and worked in the laundries were unfairly excluded from admission to the Scheme, since some of the Magdalen laundries were *"inextricably linked with other units attached to the laundries or located on the same grounds and should be considered to be one and the same institution."*⁶

Furthermore, the report criticised the lack of detailed information provided to potential applicants on the criteria for being accepted on the scheme. The report also criticised what the Ombudsman termed "overreliance" on the official records of the institution concerned, to the detriment of any other evidence provided by applicants.

It should be noted that the Department challenged this interpretation at the time⁷. However, in May 2018 the Minister for Justice, Charles Flanagan, T.D., announced that on foot of recommendations made in the Ombudsman's report the 2013 Scheme would be extended to include women who worked in the laundries of one of the 12 Magdalen institutions but who were resident in one of 14

L&RS Resources:

Further information on the Magdalen Redress Scheme is available in the [L&RS Digest: Redress for Women Resident in Certain Institutions Bill 2014](#)

⁴ *Nursing Home Support Scheme Act 2009* <http://www.irishstatutebook.ie/eli/2009/act/15/enacted/en/html>
⁵ <https://www.ombudsman.ie/publications/reports/opportunity-lost/Magdalen-Scheme.pdf>

⁶ *Opportunity Lost: An Investigation by the Ombudsman into the Administration of the Magdalen Restorative Justice Scheme* (November 2017) Office of the Ombudsman, Pp.30

⁷ See correspondence issued on the 13th October 2017 by the Department of Justice, in response to the draft report from the Ombudsman, provided in Appendix 1, *Opportunity Lost* (2017) Office of the Ombudsman, Pp. 50

adjoining institutions (See Appendix 1 for a full list). In order to apply this decision [an addendum](#)⁸ to the 2013 ex-gratia scheme was published and commenced in November 2018.

The changes to the Scheme require the amendment of the *Redress for Women Resident in Certain Institutions Act 2015*.

Outline of the Addendum to the Magdalen Redress Scheme 2013

The extension of the Magdalen Redress Scheme to women who worked in Magdalen laundries but resided in adjoining institutions was facilitated by an addendum to the Scheme which was published in November 2018.

The addendum addresses a number of the issues raised by the Ombudsman's report. For example it supplements information provided in relation to the Scheme in relation to the eligibility criteria for the scheme. It also places a greater emphasis on evidence and records from sources other than the official institutions in which an applicant worked or resided.⁹

The addendum states that if an application is deemed to be within the scope of the Scheme, an assessment will be made of (a) the length of time the applicant resided in the adjoining institution and (b) the length of time she worked in the laundry of the Magdalen institution. Women who resided in adjoining institutions covered by the addendum are required to complete a separate application form to women who are covered by the original 2013 scheme.

The addendum outlines that the commencement date for those women who are eligible under the terms of the Addendum is the same as for the original Scheme i.e. 1st August 2013. Where an applicant is determined to be eligible for the Scheme under the terms of the Addendum, any weekly instalments on the lump sum and weekly pension type payments will be backdated to 1st August 2013.

⁸ <http://www.justice.ie/en/JELR/Addendum%20FINAL.pdf/Files/Addendum%20FINAL.pdf>

⁹ See Addendum paragraphs 12 and 13.

Principal Provisions of the Bill

The Bill is a short bill which is technical in nature. It is made up of five sections. Sections 1 and 5 are straightforward, dealing with the definition of the “Principal Act” as the *Redress for Women Resident in Certain Institutions Act 2015*¹⁰ (s.1) and the short title and commencement (s.5) of the Act, which will be known as the *Redress for Women Resident in Certain Institutions (Amendment) Act 2019*. It will come into operation on such day or days as the Minister for Justice and Equality may appoint. Different days may be appointed for different purposes or different provisions. The remaining sections deal with the following:

- Section 2 of the Bill amends Section 1 of the Principal Act which deals with definitions for the Act;
- Section 3 of the Bill amends Section 2 of the Principal Act which deals with the provision of healthcare without charge and,
- Section 4 of the Bill amends Part 3 of Schedule 1 to the *Nursing Home Support Scheme Act 2009*¹¹ which deals with the assessment of means.

Section 2 of the Bill

Section 2(a) of the Bill amends section 1 of the Principal Act by inserting a definition of “*addendum*”. This refers to an addendum to the terms of the 2013 Scheme which expands the scope of the scheme to include women who worked in one of the 12 Magdalen institutions while residing in one of the 14 adjoining institutions listed in the addendum (See Appendix 1 for a full list of these institutions). This addendum has been in operation since November 2018.

Section 2 (b) of the Bill amends section 1 of the Principal Act by the substitution of a definition to replace the existing definition of “Scheme”, which refers to the 2013 scheme agreed by the Government and the terms of which include those set out in the addendum in November 2013. This new definition provides for the making of payments to women:

- (a) Who worked in the relevant institutions identified in the 2013 Scheme and;
- (b) In accordance with the terms of the addendum.

Section 3 of the Bill

Section 3 of the Bill amends section 2 of the Principal Act by substituting the term “Schedule” for “*Schedule, or where the determination of eligibility concerned was made under the terms set out in the Addendum, the residence and work in relation to which that determination was made*”

Section 4 of the Bill

Section 4 of the Bill amends paragraph 1 of Part 3 of Schedule 1 to the *Nursing Homes Support Scheme Act 2009* by the substitution of a subparagraph for subparagraph (a) of the definition of “*relevant payment*”, which is a payment or payments made under the Scheme and any benefits associated with that scheme.

¹⁰ <http://www.irishstatutebook.ie/eli/2015/act/8/enacted/en/html>

¹¹ <http://www.irishstatutebook.ie/eli/2009/act/15/schedule/1/enacted/en/html#sched1>

Table 1 below summarises each of the sections of the Bill and how they will amend the Principal Act.

Table 1: Provisions of the Bill as they apply to the Principal Act

Section of the Bill	Title	Section of the Act amended	Explanation
1.	Definitions	N/A	'Principal Act' means the <i>Redress for Women Resident in Certain Institutions Act 2015</i> .
2. (a)	Amendment of section 1 of Principal Act	S. 1	An addendum to the terms of the 2013 Scheme expanding it to include women who worked in one of the 12 Magdalen institutions while residing in one of the 14 adjoining institutions listed in the addendum . In operation since November 2018.
2. (b)			"Scheme" in the Principal Act means the ex-gratia Scheme introduced in December 2013 which provides for payments to women who were admitted to/worked in relevant institutions. Definition of "Scheme" is amended to include the terms set out in the Addendum, providing for ex-gratia payments to women resident in adjoining institutions.
3.	Amendment of section 2 of Principal Act	S.2	Subsection (1)(f) of Section 2 of the Principal Act refers to "Schedule". This is amended to include the determination of eligibility under the terms set out in the Addendum.
4.	Amendment of Part 3 of Schedule 1 to <i>Nursing Home Support Scheme Act 2009</i>	Schedule 1 (Part 3)	To amend the <i>Nursing Home Support Scheme Act 2009</i> in order to extend the disregard of <i>ex-gratia</i> payments in a financial assessment for the Nursing Home Support Scheme to women who were resident in adjoining institutions.
5.	Short title and commencement	N/A	<i>Redress for Women Resident in Certain Institutions (Amendment) Act 2019</i> . Commencement on such day or days by order of the Minister.

Stakeholder Commentary

It has not been possible, within the brief timeframe between publication of the Bill and second stage debate, to identify any commentary by relevant stakeholders. However, in a review of the implementation of the Magdalen Redress Scheme¹², Justice for Magdalen Research (JFM Research) were critical of the “unreasonable exclusion” from the scheme of women who worked in but were not deemed to have been “admitted to” the laundries, but resided nearby. It is reasonable to assume that the extension of the 2013 scheme to include women resident in adjoining institutions is likely to be welcomed by stakeholders such as JFM Research. However, the group has been critical in the past of what they perceive to be limitations in the provisions of the 2013 Scheme, including a failure to provide the full range of health and community care services recommended in the Quirke report (which were similar to the services provided by the State, to women infected with Hepatitis C)¹³.

None of the religious orders listed in the Addendum as housing relevant institutions have commented publicly on the Bill.

Cost and Implications

According to figures from June 2019, available on the Department of Justice website,¹⁴ the Magdalen Restorative Justice Ex-Gratia Scheme has made payments to 734 applicants, to the sum of €28.367million.

To date, 99 applications have been made to the scheme under the terms set out in the addendum. Of these, 52 applications had previously been refused under the original terms of the scheme. Forty seven new applications have been made to the scheme since the commencement of the addendum. Sixteen of the 99 applications were deemed ineligible and one was withdrawn, leaving 82 applications to be processed under the terms of the addendum. Of these, 35 have been paid and 24 offers have been issued. The remainder are at various stages in the process.

In the [Explanatory and Financial Memorandum](#) which accompanied the publication of the Bill, the Department states the following:

“Though these proposals will give rise to additional costs to the Exchequer, these costs are not expected to be significant in the context of the overall monies provided for health care in the State.”¹⁵

¹² <http://jfmresearch.com/wp-content/uploads/2017/03/JFMR-briefing-note-on-Magdalone-scheme-12.3.17.pdf>

¹³ Implementation of the Magdalen Restorative Justice Scheme: Where are we now? JFM Research <http://jfmresearch.com/wp-content/uploads/2017/03/JFMR-briefing-note-on-Magdalone-scheme-12.3.17.pdf> Pp.3

¹⁴ <http://www.justice.ie/en/JELR/Pages/WP15000111>

¹⁵ <https://data.oireachtas.ie/ie/oireachtas/bill/2019/43/eng/memo/b4319smemo.pdf> Pp. 4

Appendix 1

List of relevant Magdalen Laundries and adjoining institutions

Column A Magdalen Institutions in 2013 Scheme	Column B Institutions adjoining the Magdalen Institutions
<i>Good Shepherd Sisters</i>	
Magdalen institution New Ross	St. Aidan's Industrial School;
Magdalen institution Waterford	St. Dominick's Industrial School; Gracepark Training Centre; Mayfield Training Centre;
Magdalen institution Cork	St. Finbarr's Industrial School; Marymount Training Centre;
Magdalen institution Limerick	St. Georges's Industrial school St. Joseph's Reformatory School Rosemount Training Centre
<i>Sisters of Our Lady of Charity</i>	
St. Mary's Refuge, High Park, Dublin 9	An Grianán Training Centre St. Joseph's Industrial School Martanna House Hostel
Monastery of Our Lady of Charity Sean McDermott Street, Dublin 1	St. Anne's Hostel
<i>Sisters of Mercy</i>	
House of Mercy Domestic Training School, Summerhill, Wexford	St. Michael's Industrial School, Summerhill
Magdalen asylum, Forster Street, Galway	No relevant adjoining institution
St. Patrick's Refuge, Crofton Road, Dun Laoghaire, Co. Dublin	No relevant adjoining institution
<i>Sisters of Charity</i>	
St. Mary's Magdalen, Donnybrook, Dublin 4	No relevant adjoining institution
St. Vincent's, St. Mary's Road, Cork	No relevant adjoining institution
Domestic Training School, Stanhope Street, Dublin 7	No relevant adjoining institution



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