

**General Scheme
of a
Mother and Baby Institutions Payment Scheme Bill**

The purpose of this General Scheme is to provide for the making of financial payments and the making available without charge of certain health services to certain people who were resident in certain institutions under the Mother and Baby Institutions Payment Scheme and in accordance with the eligibility criteria of the Scheme; to provide for access to certain evidence received by, and certain documents created by or for, the commission of investigation established by the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015); to provide for a Chief Deciding Officer to conduct independent assessments of Scheme applicants' eligibility for said financial payments and health services; to provide that those people who are deemed eligible for said health services shall not be required to pay charges for acute in-patient services and, for those purposes, to amend the Health Act 1970; to amend the Nursing Homes Support Scheme Act 2009; and to provide for related matters.

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Head 1 – Short title

Provide along the following lines:

- (1) This General Scheme may be cited as the General Scheme of a Mother and Baby Institutions Payment Scheme Bill.

Explanatory notes

These are standard provisions.

Head 2 – Interpretation

Provide along the following lines:

“Act of 1970” means the Health Act 1970;

“Act of 2004” means the Commissions of Investigation Act 2004;

“Act of 2014” means the Companies Act 2014;

“Act of 2018” means the Data Protection Act 2018;

“Applicant” means, in relation to an application under Head 14, the relevant person who makes the application;

“Chief Deciding Officer” means the person appointed to administer the Scheme;

“commercial work without pay” means work undertaken in Tuam, in a County Home or outside of a relevant institution in which a person was resident, by a person, to whom part (b) of the definition of a “relevant person” applies, for which the person was not remunerated.

“Commission” means the Commission of Investigation established by the Order of 2015.

“database” means the databases of residents of the institutions (specified in the Appendix to the terms of reference of the Commission of Investigation set out in the Schedule to the Order of 2015) created by the Commission;

“health support payment” means a payment made in accordance with Heads 12 and 19;

“Minister” means the Minister for Children, Equality, Disability, Integration and Youth;

“Order of 2015” means the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015);

“Payment” means-

- (a) a general payment made in accordance with Head 22 as provided for in Schedule 3;
- (b) a work-related payment for commercial work undertaken without pay, made in accordance with Head 22, as provided for in Schedule 3.

“personal data” has the meaning it has in the General Data Protection Regulation meaning Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“personal public service number” has the same meaning as it has in the Social Welfare Consolidation Act 2005;

“registered medical practitioner” has the same meaning as it has in the Medical Practitioners Act 2007;

“registered nurse” has the same meaning as it has in the Nurses and Midwives Act 2011;

“related record” means-

- (a) any evidence within the meaning of the Act of 2004 received by the Commission,
- (b) any document created by or for the Commission within the meaning of section 43 of that Act, or
- (c) a copy of any such evidence or document, from which information was obtained for the purpose of creating the database.

“relevant institution” means an institution specified in Schedule 1;

“relevant person” means a person who is one or more than one of the following:

- (a) a person who was, or has reasonable grounds for suspecting he or she was, resident as a child under the age of 18 years of age, in an institution specified in Schedule 1
- (b) a person, which includes a person under the age of 18 years of age, who was resident in a relevant institution for reasons relating to pregnancy, birth or care of her child.

“resident in” means having spent one night at minimum in an institution specified in Schedule 1 and place of residence shall be construed accordingly;

“Scheme” means the Mother and Baby Institutions Payment Scheme.

Explanatory notes

This Head is to provide for the definition of terms used in the General Scheme.

The definition of “relevant person” is intended to relate to children in part (a) and to mothers in part (b).

Head 3 – Expenses

Provide along the following lines:

The expenses incurred by the Minister or the Minister for Health in the administration of this General Scheme shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys sanctioned by the Oireachtas.

Explanatory notes

This is a standard expenses provision. The Minister for Health is included in respect of the expenses related to the provision of health services without charge as part of the Scheme. A similar formulation was used in the Redress for Women Resident in Certain Institutions Act 2015.

Head 4 – Establishment of a Mother and Baby Institutions Payment Scheme

Provide along the following lines:

- (1) A Scheme to be known as the Mother and Baby Institutions Payment Scheme to be operated under and in accordance with this General Scheme is established on such day as shall be prescribed by the Minister.
- (2) The Scheme is established for the purpose of making payments and the making available without charge of certain health services to certain people who were resident in institutions listed in Schedule 1.

Explanatory notes

Subhead (1) provides for the establishment of the Mother and Baby Institutions Payment Scheme by regulation. The Scheme will be administered via an Executive Office to be set up in the Department of Children, Equality, Disability, Integration and Youth which will be headed up by a Chief Deciding Officer, as outlined in Head 6.

Subhead (2) sets out that the overall purpose of the Scheme is to make payments and provide a form of enhanced medical card to former residents of the institutions listed in Schedule 1, in accordance with the eligibility criteria set out in the General Scheme.

Head 5 – Duration of the Scheme

- (1) The Scheme shall cease to operate on a date which shall be prescribed by the Minister and which shall not be later than the fifth anniversary of the establishment day of the Scheme in accordance with Head 4.

Explanatory Notes

Subhead (1) seeks to provide for the Scheme to be in operation for no more than five years. This formulation is proposed so that the Minister, by regulation, could potentially choose any end date for the Scheme that he would deem appropriate but that the end date should be no later than the fifth anniversary of the establishment of the Scheme. It is anticipated that most applications to the Scheme would be made in the first year or two of the Scheme's operation.

Head 6 – Office of the Chief Deciding Officer of the Mother and Baby Institutions Payment Scheme

Provide along the following lines:

- (1) There shall be established within the Department of Children, Equality, Disability, Integration and Youth an Office to be known as the Office of the Chief Deciding Officer of the Mother and Baby Institutions Payment Scheme and the person holding this Office is referred to in this General Scheme as “the Chief Deciding Officer”.
- (2) The Chief Deciding Officer shall be a person appointed by the Minister from among his or her officers to that office as and when a vacancy arises.
- (3) A person appointed to be the Chief Deciding Officer shall hold office on such terms and conditions as may be determined by the Minister after consultation with the Minister for Public Expenditure and Reform at the time of the appointment.
- (4) The Minister may remove the Chief Deciding Officer from office for stated reasons.
- (5) A person shall not be eligible for appointment as Chief Deciding Officer and shall cease to hold office as Chief Deciding Officer if he or she —
 - a) is sentenced by a court of competent jurisdiction to a term of imprisonment,
 - b) is convicted on indictment of an offence,
 - c) is convicted of an offence involving fraud or dishonesty,
 - d) has a declaration made against him or her under section 819 of the Act of 2014 or is deemed to be subject to such a declaration by virtue of Chapter 5 of Part 14 of that Act, or
 - e) is subject to, or is deemed to be subject to, a disqualification order within the meaning of Chapter 4 of Part 14 of the Act of 2014 whether by virtue of that Chapter or of any other provision of that Act.
- (6) The Chief Deciding Officer shall perform the functions conferred on him or her by or under this General Scheme and shall be assisted in the performance of those functions by such members of staff as are appointed or assigned under Head 9.

Explanatory notes

The policy intention of this Head is that the Scheme will be administered via an Executive Office which would operate within the Department of Children, Equality,

Disability, Integration and Youth. The General Scheme seeks to give powers to the Chief Deciding Officer, who can further delegate such powers to his or her staff. The Chief Deciding Officer will be independent in the performance of his or her functions, as set out in Head 7. It is not anticipated that the Office would have an official seal. The Chief Deciding Officer would be accountable to the Secretary General of the Department in terms of his role as the Accounting Officer for the Department and engagement with the Public Accounts Committee would be carried out on that basis. As is the case with all expenditure related to the Vote of his Department, the Secretary General would also be answerable to the Comptroller and Auditor General in respect of expenditure incurred in relation to the Scheme. As is standard practice, the Joint Oireachtas Committee would have the authority to call the Chief Deciding Officer to appear before them to report on the performance of his or her functions.

In the interests of establishing the Scheme as quickly as possible, it is anticipated that much of the preparatory work for establishing the Scheme and the structures required to operate the Scheme will be undertaken in the Department and, where possible, before the Scheme is formally established in statute.

Subhead (1) sets out that the Office of the Chief Deciding Officer will be established within the Department of Children, Equality, Disability, Integration and Youth to administer the Scheme.

Subhead (2) is modelled on the Civil Registration Act 2004. The intention of this subhead is to provide for the Chief Deciding Officer to be an employee of the Department, whether for the duration of their term as the Chief Deciding Officer responsible for heading up the Executive Office in the case of a secondment, or on an indefinite basis in the case of mobility. On completion of the Scheme, the functions of the Chief Deciding Officer role will lapse. In the event the Chief Deciding Officer is removed from Office under Subhead 4, the Minister may appoint another person to the role.

Subhead (3) provides for the terms of the appointment of the Chief Deciding Officer.

Subhead (4) provides for the Minister to be able to remove the Chief Deciding Officer from office if he deems it necessary. The subhead is modelled on the Institutional Burials Bill 2022 (as initiated) Section 11(2) and can be elaborated on if necessary by way of adding further reasons to the Head.

Subhead (5) is modelled on the Institutional Burials Bill 2022 (as initiated) Section 11(3) provides for the circumstances where a person shall not be eligible for appointment as Chief Deciding Officer or shall cease to hold office as Chief Deciding Officer.

Subhead (6) provides for the Chief Deciding Officer to perform the functions conferred on him or her by the General Scheme but also states that he or she shall

be assisted in the performance of his or her functions by members of his or her staff. While powers are vested in the Chief Deciding Officer and decisions will be made in his or her name, the policy intention is that the Chief Deciding Officer will be assisted to a considerable extent by the staff of the Executive Office which will be established in the Department to administer the Mother and Baby Institutions Payment Scheme. The Chief Deciding Officer, and staff, shall be independent in the performance of the functions set out in Head 7, in accordance with Head 7(3).

Head 7 – Functions of Chief Deciding Officer

Provide along the following lines:

- (1) On the establishment of the Scheme in accordance with Head 4, the principal functions of the Chief Deciding Officer shall include the following-
 - (a) to manage and assess applications to the Scheme in accordance with Heads 14 and 15, and any regulations made by the Minister under Head 13,
 - (b) to determine entitlement to payments in accordance with Heads 18 and 21 of this General Scheme, and any regulations made by the Minister under Head 13,
 - (c) to determine eligibility for access to health services without charge in accordance with Head 19,
 - (d) to inform the Health Service Executive to make available to relevant participants, in accordance with Head 19, without charge the health services outlined in Head 20 subhead (1),
 - (e) to make all reasonable efforts, through public advertisement in Ireland and abroad, and otherwise, to ensure that persons who were residents of an institution are made aware of the Scheme and the functions referred to in subheads (1)(a) - (c),
 - (f) to manage reviews of decisions made in accordance with Head 25, and
 - (g) to perform any other functions conferred on him or her by the Minister under subhead (2).
- (2) The Chief Deciding Officer may perform such additional functions in relation to the administration of the Mother and Baby Institutions Payment Scheme as provided for in regulations under Head 13(2)(a).
- (3) The Chief Deciding Officer shall be independent in the performance of the functions specified in subhead (1).
- (4) The Chief Deciding Officer may delegate such of his or her functions as he or she considers appropriate to a member of his or her staff. References to the Chief Deciding Officer shall be construed, where appropriate having regard to any delegation under this Head, as including references to any person to whom functions stand delegated by the delegation.

Explanatory notes

This Head is modelled on the Residential Institutions Redress Act 2002 and, to some extent, the Civil Registration Act 2004. The Civil Registration Act assigns functions to the General Registrar, who is an official of the Minister for Social Protection. The

Chief Deciding Officer will be responsible for heading up the Executive Office which will operate the Scheme.

Subhead (1) seeks to set out the main functions of the Chief Deciding Officer following the establishment of the Mother and Baby Institutions Payment Scheme.

Subhead (1)(a) refers to administering the Scheme in terms of overseeing the application process.

Subhead (1)(b) relates to determining the entitlement to payments to be made to applicants in accordance with Heads 18 and 21. The reference to Head 18 covers general and work-related payments, whereas Head 21 refers to health support payments, which are payments in lieu of a form of enhanced medical card. It is the intention that payments will be made via the DCEDIY Finance Unit, so the role of the Executive Office will be to ensure the correct information is provided to the Finance Unit to ensure the payments are made.

Subhead (1)(c) relates to determinations with regard to applicants' eligibility for access to health services without charge in accordance with Head 19. Where an applicant's eligibility for access to health services without charge is agreed, this will be operationalised by a form of enhanced medical card.

Subhead (1)(d) refers to ensuring that applicants who are eligible for a form of enhanced medical card receive one. The role of the Executive Office in this regard will be to provide the correct information to the HSE who will be responsible for providing it to the person in question.

Subhead (1)(e) concerns the duty of the Chief Deciding Officer to ensure that the existence of the Scheme is widely advertised in Ireland and abroad so that any relevant persons are aware of their entitlement to apply. It is anticipated that the Department's Communication Unit and the Department of Foreign Affairs would assist in this.

Subhead (1)(f) relates to managing reviews of decisions made, in accordance with Head 25. Reviews must be undertaken before an applicant has recourse to the independent appeals mechanism set out in Head 27.

Subhead (1)(g) provides that the Chief Deciding Officer should perform any other functions conferred on him or her by the Minister in accordance with Subhead (2).

Subhead (2) allows the Minister to confer additional functions. Such additional functions would be in relation to the administration of the Scheme on the Chief Deciding Officer via regulations.

Subhead (3) is based on the Civil Registration Act 2004 and provides for the independence of the Chief Deciding Officer in the performance of the functions specified in Subhead (1), similar to that of the General Registrar, even though the Chief Deciding Officer will be an official of the Department and a civil servant.

Subhead (4) provides for the Chief Deciding Officer to delegate any of his or her functions to members of his or her staff. This is modelled on the Civil Registration Act 2004 in terms of the General Registrar's role and the Freedom of Information Act 2014, Schedule 2, para. 9. It is crucial that the Chief Deciding Officer can delegate functions so that the administrative and decision-making activities associated with the Scheme are carefully distributed across all of the Chief Deciding Officer's staff in the Executive Office. The Chief Deciding Officer, however, will be the person ultimately accountable for the overall administration of the Scheme and operation of the Executive Office. Head 8 provides for a Deputy Chief Deciding Officer to be designated, where necessary, from among the Chief Deciding's Officer's staff.

Head 8 – Deputy Chief Deciding Officer

Provide along the following lines:

- (1) The Chief Deciding Officer may designate one staff member to be the Deputy Chief Deciding Officer.
- (2) The Deputy Chief Deciding Officer shall perform and carry out the functions of the Chief Deciding Officer in the absence of the Chief Deciding Officer or when there is no Chief Deciding Officer and references to the Chief Deciding Officer shall be read accordingly.

Explanatory Note

Subhead (1) provides for the appointment of a Deputy Chief Deciding Officer, at the discretion of the Chief Deciding Officer. This is intended to be an internal and administrative title and not one for which bespoke terms and conditions must be legislated for outside of the other provision in the General Scheme permitting the hiring of staff or the secondment of staff.

Subhead (2) provides that a Deputy Chief Deciding Officer shall perform the functions of the Chief Deciding Officer in the absence of that person and that references to the 'Chief Deciding Officer' throughout the General Scheme should be interpreted so that a Deputy can fill in for a Chief Deciding Officer in all functions assigned to a Chief Deciding Officer as necessary.

Head 9 – Staff

Provide along the following lines:

The Minister may appoint such and so many members of staff of the Chief Deciding Officer, with the consent of the Minister for Public Expenditure and Reform as to the number of staff and terms and conditions of staff, including grades and levels of remuneration, allowances, superannuation and termination of employment, as the Chief Deciding Officer may from time to time require, to assist in the performance of his or her functions.

Explanatory notes

This Head seeks to provide for the appointment of staff to support the Chief Deciding Officer in the Executive Office. It should be noted that the Executive Office will operate within the Department and rely heavily on Departmental structures such as the Finance Unit, the IT Unit, the Communications Unit, the HR Unit, and all of the accompanying systems. The Executive Office will be in place for the duration of the operation of the Mother and Baby Institutions Payment Scheme, with an expectation that the bulk of applications will be received and processed within the first two years of the Scheme's establishment. With this in mind, it may be preferable that not all of the estimated 60 staff potentially required at the height of the Scheme's operation are recruited as additional civil servants because, once the peak of applications to the Scheme has passed, the Executive Office should scale down and other positions would then need to be found for each staff member if all of the staff are civil servants. In particular, there may be a significant need for the appointment of Temporary Clerical Officers.

The intention is that staff in the Executive Office could potentially be civil servants newly appointed from panels, civil servants moved from other parts of the Department, civil servants appointed through mobility or, people employed on temporary contracts to work in the Executive Office. It is also intended that secondments of staff from other public bodies could be used to fill positions in the Executive Office for a specified duration.

Head 10 – Annual Report

Provide along the following lines:

- (1) The Chief Deciding Officer shall, not later than [30 June] in each year, beginning with the year [2024], prepare a report in writing on the operation of this General Scheme in the preceding year and shall furnish a copy of it to the Minister.
- (2) The report shall, if the Minister so directs, include information in such form and regarding such matters as he or she may specify.
- (3) The Minister shall cause copies of the report to be laid before each House of the Oireachtas.
- (4) A report of the Chief Deciding Officer shall not identify any applicant or person referred to in an application.

Explanatory notes

This Head provides for the preparation of an annual written report, by the Chief Deciding Officer, on the operation of this General Scheme for submission to the Minister.

Subhead (1) sets out that each report will cover the previous calendar year. On the assumption that the Mother and Baby Institutions Payment Scheme will open for applications in late 2022, it is logical to provide that the first report would be due in 2024. 30th June has been provisionally scheduled as the deadline for receipt of the report. The same date should be used annually as the deadline.

Subhead (2) sets out that the Minister will have the power to specify the form and content of the report.

Subhead (3) sets out that the Minister shall lay copies of the annual report before the House of the Oireachtas.

Subhead (4) sets out that the report shall not identify any applicant or person referred to in an application. It will be possible to name institutions.

Head 11 – Payment Rates

Provide along the following lines:

- (1) The amount of the payment as defined in Head 2 shall be in accordance with the rates of payment as set out in Schedule 3.
- (2) The Chief Deciding Officer shall have regard to any regulations that may be made by the Minister in relation to procedures for the purposes of this Head.

Explanatory notes

Subhead (1) provides for the general and work-related payments under the Scheme to be made in accordance with the rates of payment for each, agreed by Government and set out at Schedule 3.

Subhead (2) provides that the Chief Deciding Office should have regard to any procedures that the Minister may make by regulation in relation to payment rates.

Head 12 – Health Support Payment

Provide along the following lines:

(1) The rate of the Health Support Payment is €3,000.

Explanatory notes

This head provides for the Health Support Payment in the amount of €3,000 as agreed by Government, This payment will be provided to applicant's living abroad in lieu of a form of enhanced medical card where is it established that they meet the eligibility criteria for the provision of health services without charge as set out in Head 20.

Head 13 – Regulations

Provide along the following lines:

- (1) The Minister may make regulations for prescribing any matter referred to in this General Scheme as prescribed or to be prescribed.
- (2) The Minister shall make regulations in relation to the operation of the Scheme which may provide for
 - (a) the additional functions of the Chief Deciding Officer in relation to the administration of the Mother and Baby Institutions Payment Scheme as he or she considers appropriate.
 - (b) the procedures for the purposes of Head 11;
 - (c) the procedures for the purposes of determining eligibility under Head 15 (2);
 - (d) the procedures for determining an applicant's residency in Head 21;
 - (e) the procedures for the conduct of reviews under Head 25, to include procedures relating to time limits for the making and determination of reviews and any ancillary supplemental or consequential matters as may be necessary to give full effect to this Head;
 - (f) the procedures for the purposes of an appeal under Head 27 including -
 - i. time limits for the making and determination of appeals and any ancillary, supplemental or consequential matters as may be necessary to give full effect to this Head,
 - ii. the form in which the appeal shall be made, including electronic form,
 - iii. making of submissions, whether oral or written, to the appeals officer,
 - iv. requests for further information by the appeals officer, and
 - v. examination by the appeals officer of the appellant and any other person whom the appeals officer considers appropriate.
 - (g) the payment of reasonable costs and expenses related to the provision of independent legal services or advice to applicants for the purposes of Head 29.
 - (h) the insertion of any Mother and Baby Institution in Schedule 1, with the consent of the Minister for Public Expenditure and Reform and in accordance with Head 34;
 - (i) suitable and specific measures for the processing of personal data and special categories of personal data, including
 - (i) measures set out in section 36(1) of the Act of 2018,

- (ii) where the processing involves data relating to the health of a data subject, additional measures to be taken to safeguard the processing of that data.

Explanatory notes

This Head vests authority in the Minister to make regulations.

Subhead (1) refers to the fact that the Minister may make regulations for prescribing any matter that is referred to in the General Scheme as prescribed or to be prescribed.

Subhead (2) lists specific aspects of the Scheme for which the Minister may make regulations. It is not intended that the Minister will necessarily make regulations relating to all of the matters listed.

Subhead (2)(a) provides for the Minister to make procedures setting out additional functions of the Chief Deciding Officer in relation to the administration of the Mother and Baby Institutions Payment Scheme.

Subhead 2(b) provides for the Minister to make procedures to allow the Chief Deciding Officer to fairly and equitably administer the financial awards within the parameters of the Government agreed rates of payment at Schedule 3.

Subhead 2(c) provides for the Minister to prescribe procedures for assessing applications and determining applicants' eligibility for benefits under the Scheme.

Subhead 2(d) provides for the Minister to prescribe procedures to be observed in respect of the assessment of an applicant's residency for the purposes of determining the applicant's eligibility for a health support payment in lieu of a form of enhanced medical card.

It is noted that the HSE has requirements in place for a person to prove their residency status so something similar could be developed for these purposes, albeit to prove residency outside of Ireland. Documents dated within the previous 12 months may be required, such as:

- Proof of property purchase or rental, including evidence that the property is the person's principal residence (for example, proof of rent from a local authority or similar)
- A letter or statement from a financial institution (for example a bank statement)
- A current utility bill (such as a gas, electricity or phone bill)
- A current car or home insurance policy in the person's name

- An official document from a government department.

Subhead 2(e) provides for the Minister to prescribe procedures to be observed in respect of the conduct of reviews carried out in accordance with Head 25.

Subhead 2(f) provides for the Minister to prescribe procedures to be observed in respect of the conduct of appeals carried out in accordance with Head 27.

Subhead 2(g) provides for the Minister to establish the means of covering reasonable costs and expenses related to the provision of independent legal advice to applicants. Costs and expenses would likely include legal expenses for many applicants at the time of signing a waiver, in accordance with Head 20. Given the nature of the Scheme is primarily based on length of time, the intention as set out in the Interdepartmental Group Report is to cap the amount to be provided to cover legal advice at the time of signing a waiver at approximately €500 +VAT. A minority of applicants could also be expected to need to provide affidavits to support their application and the intention is to provide financial support for this to a limit of approximately €200 +VAT. These estimates will be further considered in the development of Regulations under this subhead.

Subhead 2(h) provides for the Minister to insert in Schedule 1, and in accordance with Head 34, any Mother and Baby Institution which was established for the purpose of providing maternity and infant care services and the placement of children for the purposes of adoption, fostering, boarding out or other care arrangements and in respect of which a public body had a regulatory or inspection function.

Subhead 2(i) provides for the Minister to prescribe procedures for the processing of personal data and special categories of personal data. Special categories of personal data may potentially come into play in accordance with any prioritisation of applicants to be carried out in administering the Scheme and, incidentally, through processing applicants' personal data in relation to the time they spent in one of the institutions listed in Schedule 1.

Head 14 – Applications

Provide along the following lines:

- (1) A person who considers that he or she is a “relevant person” may apply to the Chief Deciding Officer for any or all of the benefits set out in Heads 18, 19 and 21.
- (2) A relevant person shall make an application to the Chief Deciding Officer referred to in Head 6 at least one year before the date prescribed under Head 5 subhead (1).
- (3) In the case of each person by, or in respect of, whom an application to the Scheme may be made-
 - (a) only one application may be made, but
 - (b) that application may refer to circumstances set out in part (a) and (b) of the definition of a “relevant person” and may relate to more than one institution or period of residence.
- (4) An application shall be made in such form as may be specified by the Chief Deciding Officer and shall include such contact details and personal data of the applicant as are required for the performance by the Chief Deciding Officer of his or her functions under this General Scheme.
- (5) An applicant shall provide his or her personal public service number (or, in any case where the applicant does not have a personal public service number, such other information concerning their identity as stands determined by the Chief Deciding Officer for the purposes of this Head).
- (6) A person who knowingly gives false information to the Chief Deciding Officer shall be guilty of an offence and shall be liable on conviction on indictment to the penalties applying to perjury.

Explanatory Notes

This Head relates to the overarching application process for the Scheme in terms of who can apply, broad timelines and the steps to be followed. It is intended to provide further detail in regulations and guidelines. Different eligibility criteria are in place for the various benefits available under the Scheme, i.e. the general payment (Head 18), the work-related payment (Head 18), the form of enhanced medical card (Head 19), the health support payment in lieu of the form of enhanced medical card (Head

21) and these are set out in the relevant Heads which deal respectively with determining eligibility for each of those benefits.

Subhead (1) sets out that a person who believes that they meet the definition of a “relevant person” under this General Scheme can apply to the Scheme for one or more of the following:

- A general payment and, where relevant, a work-related payment as set out in Head 18. It will not be possible to apply for a work-related payment without also applying for a general payment;
- A form of enhanced medical card, as provided for in Head 19 in terms of the provision of health services without charge which will be operationalised by the HSE as a medical card;
- A health support payment in lieu of a form of enhanced medical card, as provided for in Head 21, where the applicant resides outside of Ireland and decides not to accept a form of enhanced medical card;

In the name of the Chief Deciding Officer, the staff of the Executive Office will be empowered to determine which, if any, of the benefits listed will be offered to the applicant based on the criteria set out in Heads 18, 19 and 21.

Subhead (2) sets out that all applications to the Scheme must be received at least one year before the date prescribed under Head 5 subhead (1) which signals the end date of the Scheme.

Subhead (3) sets out that for each person who makes an application, whether the application is for themselves or on behalf of another person (in accordance with Head 23 or Head 24), only one application should be submitted. This would be relevant in a case where the applicant was in an institution as a child and later returned as a mother. The applicant should only submit one application which can cover both of those experiences in terms of calculating the cumulative time spent in an institution.

Subhead (4) provides that specific guidelines for making applications will be drawn up. Each application shall include the name, address, telephone number (where available), email address (where available) of the applicant. Depending on the circumstances, the personal data required could relate to documentary evidence pertaining to time spent by the applicant in a relevant institution and/or an affidavit swearing to time spent in a relevant institutions. Such personal data is required to enable the staff of the Executive Office to determine what eligibility the applicant may have under the Scheme.

Subhead (5) provides for an applicant to be required to provide his or her personal public service number (PPSN) when making an application. If an applicant does not have a PPSN, then another form of identification will be required.

Subhead (6) is based on Section (7)(6) of the Residential Institutions Redress Act 2002. In contrast to the operation of the Residential Institutions Redress Board, the Mother and Baby Institutions Payment Scheme will largely deal with records and, in

more limited circumstances, affidavits concerning the applicants' length of stay in institutions and commercial work carried out without pay.

Head 15 – Assessment of Applications

Provide along the following lines:

- (1) On receipt of an application, the Chief Deciding Officer shall-
 - (a) acknowledge the application [within 14 days],
 - (b) establish to his or her satisfaction proof of the identity of the applicant
- (2) When determining eligibility in accordance with Heads 18, 19 and 21, the Chief Deciding Officer-
 - (a) shall have regard to the procedures set out in regulations that may be made by the Minister under Head 13,
 - (b) may request further information from the applicant as part of the determination process,
 - (c) may access and perform a search of the copy of the database and, where relevant, the copy of the related records of the Commission deposited with the Minister under section 4(1) of the Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020, in accordance with Head 17, to seek to establish or verify the applicant's residence and period of residency in a qualifying institution or verify personal data provided in an application,
 - (d) may, where relevant, request an information source listed in Schedule 2 that holds personal data about the applicant to disclose personal data, including special categories of personal data where necessary and proportionate, relevant only to the purpose of establishing or verifying the applicant's residence and period of residency in a qualifying institution, in accordance with Head 17,
 - (e) shall have regard to any affidavit that an applicant may provide as part of his or her application, and any affidavit provided by others deemed relevant to an application and may speak with applicants and others deemed relevant,
 - (f) shall make determinations as to whether the applicant fulfils the eligibility criteria as set out in Heads 18, 19 and 21 as soon as practicable and having regard to the age and health of the applicant to the extent practicable and in accordance with any regulations made under Head 13.
- (3) A request under subhead 2(d) shall-
 - (a) confirm the purpose for which the information is required,

- (b) specify that a copy only of any documents should be provided,
 - (c) confirm the safeguards in place in relation to the storage of the information and documents provided, and
 - (d) specify the time period within which the information and any relevant documents are to be provided by the information source to the Chief Deciding Officer.
- (4) Subject to Subhead 3, an information source listed in Schedule 2 who is asked by the Chief Deciding Officer to disclose personal data about an applicant, including special categories of personal data where necessary and relevant, for the purposes of establishing the applicant's residence and period of residency in a qualifying institution, shall comply with a request under subhead 2(d) within the time period specified in the request or within such further time period as may be agreed in writing between the Chief Deciding Officer and the information source.
- (5) The Minister may, where he considers a person may have relevant information or documents for the purpose outlined in subhead 2, prescribe the person as an information source.
- (6) The Chief Deciding Officer may share such contact details and personal data referred to in this Head with other parties as is necessary and proportionate for the specific purposes of -
- (a) awarding payment in accordance with Head 22, and
 - (b) where relevant, informing the Health Service Executive of the applicant's eligibility for health services without charge, in accordance with Head 19.
- (7) The Chief Deciding Officer shall share with the applicant a copy of information accessed which is relevant to determinations made in relation to his or her application.

Explanatory Notes

Subhead (1) sets out that, when an application is received in the Executive Office, its receipt should be acknowledged [within 14 days] and, in accordance with Head 14, a staff member of the Executive Office should satisfy himself or herself that adequate proof of the identity of the applicant has been supplied.

Subhead (2) sets out steps that the staff of the Executive Office should take when assessing applications. The intention is that the Mother and Baby Institutions Payment Scheme will be non-adversarial and timely.

Subhead (2)(a) provides for any processes set out in accordance with regulations made under Head 13 to be followed.

Subhead (2)(b) provides for the Executive Office to have the right to request further information from an applicant in order to assist them with their assessment of the application.

Subhead (2)(c) provides for the Executive Office to be able access and search the Commission's Database and related records to seek to establish the applicant's residence and period of residency in a qualifying institution (where they don't hold records themselves) or verify personal data provided in an application i.e. records they possess and have supplied with their application. Such a provision is ultimately beneficial to applicants because it will allow for a faster determination of their application, particularly if they do not hold records themselves, as the Executive Office has the power to perform these searches on their behalf.

Subhead (2)(d) provides for the Executive Office to be entitled to request information from other persons or bodies, listed in Schedule 2, which may hold relevant records. The intention in this subhead is that the information would be provided again where an applicant does not possess records in order to establish entitlement or to verify information provided by an applicant. Records that relate to hospital stays may be accessed purely for the purpose of determining the overall length of time that an applicant was resident in an institution, including time spent in hospital. This may, however, constitute special category data even though the interest of the Executive Office in those records will not be for the purposes of finding any medical data contained therein.

In respect of Subhead 2(c) and 2(d) and accessing personal information either through the Commission's Database and related records or from other public bodies, it is intended to be very clear in the application form and all communication with applicants what we will be doing and why in the context of dealing with their application.

Subhead (2)(e) provides that the Executive Office shall have regard to any affidavits provided by applicants, which could potentially involve taking steps to verify the information provided in that way through referring to any records they may be able to access and receiving affidavits from others who may be able to support the account provided by the applicant. The intention is also that staff of the Executive Office should be able to speak with an applicant or anyone else who has provided information to support the applicant's account. While it is expected that the need for this would be rare, it is deemed important that the Executive Office should have the power to use such measures in cases where records are scant. It would serve as an information gathering exercise, conducted in a sympathetic manner, to support applicants in their application and it is in no way expected that it would involve any cross examination of an applicant.

Subhead (2)(f) sets out that determinations on any benefits due to an applicant should be made as soon as practicable. It is the intention that decisions made with regard to different eligibilities under the Scheme should be communicated and actioned as quickly as possible even if decisions with regard to other eligibilities are

still in progress. For instance, if it is found that an applicant should be eligible for a form of enhanced medical card under the Scheme but it takes longer to determine what payment(s) the applicant is entitled to, then the HSE should be informed of the applicant's eligibility for the form of enhanced medical card. In the case of the general, and work-related payment where relevant, the applicant will have to sign a waiver before the payment is made.

This subparagraph also sets out that regard should be had to applicants' age and health status, to the extent practicable, in terms of prioritising the assessment of an application. This is an intention that Government approved and that the Minister has made public reference to since the publication of the proposals for the Scheme.

Should an applicant indicate in their application that they wish to be considered for prioritisation based on exceptional health circumstances, and has provided supporting documentation such as a consultant or GP letter, this should cause the application to be prioritised. Such information would constitute special category data.

Subhead (3) is based on section 27 of the Institutional Burials Bill (as initiated). It provides that requests for information under subhead (2)(d) shall comply with the provisions in the subparagraphs of this subhead.

Subhead (4) sets out that an information source listed in Schedule 2 shall disclose the relevant data requested by the Executive Office and shall comply with a request under subhead 2(d) within the time period specified in the request or within a further time period as agreed.

Subhead (5) sets out that the Minister may amend Schedule 2 if he considers another person or body may have relevant information or documents relevant to the purpose outlined in subhead (2).

Subhead (6) sets out that the Chief Deciding Officer may only share contact details and personal data with other parties as is necessary and proportionate for the specific purposes of awarding payments under Head 22 or informing the Health Services Executive of an applicant's eligibility for a form of enhanced medical card under Head 19.

Subhead (7) provides that the Executive Office can provide an applicant with a copy of the information he or she has accessed which is relevant to his or her determination of entitlement.

Head 16 – Processing of personal data and special categories of personal data

Provide along the following lines:

- (1) Subject to this General Scheme and such regulations (if any) which may be made under Head 13, a person may process personal data and special categories of personal data of an applicant, in accordance with the General Data Protection Regulation and the Act of 2018, for the purposes of the performance of the functions of the Chief Deciding Officer or an Appeals Officer, as the case may be, under this General Scheme.

Explanatory Notes

This Head is modelled on Section 31 of the Institutional Burials Bill (as initiated). Special categories of personal data may need to be accessed in cases where an applicant spent time in a hospital during their period of residency in an institution listed in the Schedule. The interest of the Executive Office in accessing records related to hospital stays will not be for the purposes of finding any medical data contained therein, but to seek to determine the overall amount of time an applicant has spent in an institution, including time spent in hospital, to operate in favour of the applicant.

Special categories of personal data, such as data relating to health, may also need to be processed to prioritise applicants based on their health status, in accordance with Head 15 subhead (2)(f).

Head 17 – Use of database and records of Commission of Investigation into Mother and Baby Homes

Provide along the following lines:

- (1) The Chief Deciding Officer may access and process personal data contained in the copy of the database and copy of the related records of the Commission deposited with the Minister under section 4(1) of the Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020, for the purpose of the performance of his or her functions under this General Scheme.
- (2) The Chief Deciding Officer may share with an Appeals Officer personal data accessed from the copy of database and copy of the related records where necessary and proportionate for the performance by the Appeals Officer of his or her functions under this General Scheme.
- (3) For the avoidance of doubt, the Act of 2004 shall not operate to prevent the Chief Deciding Officer from processing personal data contained in the copy of the database and copy of the related records of the Commission deposited with the Minister under section 4(1) of the Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020, where necessary and proportionate for the performance by the Chief Deciding Officer of his or her functions under this General Scheme.

Explanatory notes

Subhead (1) provides the Executive Office with the authority to access and process personal data in the database and related records held in the Department to the extent necessary and proportionate to perform his or her functions. It is intended that this will allow the staff of the Executive Office to make copies of records if necessary. Robust safeguards will be developed for the processing and retention of personal data. It is anticipated that copies of records would only be made for the purposes of providing them to an independent Appeals Officer, because he or she would not have access to copy of the database and related records held in the Department.

Subhead (2) provides for the Executive Office to share information with an Appeals Officer as required.

Subhead (3) is based on section 3(3) of the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and Another Matter, Act 2020.

Head 18 – Determination of entitlement to payment

- (1) Where an applicant is a person to whom part (a) of the definition of a relevant person applies and it is established to the satisfaction of the Chief Deciding Officer that he or she was resident in a relevant institution for a minimum of six months, the applicant shall be entitled to a general payment in accordance with rates provided for in Head 11 and Schedule 3.
- (2) Where an applicant is a person to whom part (b) of the definition of relevant person applies and it is established to the satisfaction of the Chief Deciding Officer that she was resident in a relevant institution, the applicant shall be entitled to a general payment in accordance with rates provided for in Head 11 and Schedule 3.
- (3) Subject to subhead (2), where an applicant is a person to whom part (b) of the definition of relevant person applies and has established to the satisfaction of the Chief Deciding Officer that she was resident in a relevant institution for a minimum of three months and undertook commercial work without pay in accordance with the definition under Head (2) she shall be entitled to a work related payment in accordance with rates provided for in Head 11 and Schedule 3.
- (4) In determining an application under Subhead (3), the Chief Deciding Officer shall have regard to the definition of commercial work without pay under Head (2) and accept that an applicant to whom part (b) of the definition of a relevant person applies who has satisfactorily established her residency in the Tuam Home or a County Home shall be entitled to a work related payment without having to provide further evidence to that effect.
- (5) A person shall not qualify for a general payment in respect of a period of residence as a child in an institution where they have already received an award under the Residential Institutions Redress Scheme for their experience during the same time period.
- (6) A person who has received an award from a court or settlement in respect of an action arising out of any circumstances which could give rise to an application for a payment before the Chief Deciding Officer shall not qualify for a payment in respect of a period of residence in a relevant institution.
- (7) The making of an application for a payment to the Chief Deciding Officer does not involve the waiver of any other right of action by the applicant.
- (8) Where the Chief Deciding Officer has determined that an applicant qualifies for a payment in accordance with the provisions of this Head, he or she shall also determine the rate of payment for which the applicant qualifies in

accordance with Head 11 and Schedule 3, and shall notify the applicant as soon as practicable of the decision.

- (9) Where the Chief Deciding Officer determines that an applicant does not qualify for a payment in accordance with the provisions of this Head, he or she shall notify the applicant as soon as practicable of the decision.
- (10) An applicant may request the Chief Deciding Officer to review his or her decision regarding the rate of payment offered under Subhead 8 or a determination that the applicant does not qualify under Subhead 9, in accordance with Head 25.

Explanatory Notes

This Head concerns the determination of an applicant's entitlement to a general payment, and in some cases also a work-related payment, under the Mother and Baby Institutions Payment Scheme. Head 11 and Schedule 3 provide for the payment rates agreed by Government with further powers provided to the Minister under Head 13 to make procedures for the purposes of the administration of these rates. Time spent does not have to be concurrent and can have been accumulated in different institutions.

Subhead (1) sets out that a person who has satisfactorily proved to the Executive Office that they were resident in a relevant institution as a child for six months or more is entitled to a general payment in accordance with Schedule 3. As set out in the Government approved proposals for the Scheme, the general payment recognises time spent in a relevant institution, harsh conditions, emotional abuse and other forms of mistreatment, stigma and trauma experienced while resident in a Mother and Baby or County Home Institution. Exclusions apply in relevant Heads.

Subhead (2) sets out that a person who has satisfactorily proved to the Executive Office that they were resident as a mother in a relevant institution for one night or more is entitled to a general payment in accordance with Schedule 3. The Explanatory Note for subhead (1) explains what the general payment recognises.

Subhead (3) sets out that a mother who has satisfactorily proved to the Executive Office that she was resident in a relevant institution for a minimum of three months and undertook commercial work without pay while resident is entitled to a work-related payment, in addition to a general payment, in accordance with rates set out in Schedule 3. A work-related payment is defined in Head (2).

Subhead (4) provides that if a mother was resident in a County Home or in the Tuam Mother and Baby Home, then the work-related payment is to be automatically calculated and added to the general payment because it is accepted that all mothers in those institutions undertook such work as a matter of course. However, for the other relevant institutions, the intention is that the applicant will have to provide

evidence that she undertook such work *outside* the institution but while resident there.

The intention of **Subhead (5)** is that a person, who was resident as a child in St Patrick's Institution/Pelletstown and already received an award under the Residential Institutions Redress Scheme for their experience as a child in that institution, shall not be eligible for a payment in respect of that same experience. That institution is the only one which is covered by the Residential Institutions Redress Scheme and by the Mother and Baby Institutions Payment Scheme. Any applicant who was resident for more than six months as a child in Pelletstown but who did not receive an award through the Residential Institutions Redress Scheme will be eligible for a payment under this Scheme, even if they applied for the Residential Institutions Redress Scheme but were unsuccessful in their application. The reason for this is that to be eligible for the Residential Institutions Redress Scheme, applicants had to prove that they were abused, whereas this Scheme does not require proof that abuse took place.

Subhead (6) is modelled on section 7 of the Residential Institutions Redress Act 2002. The subhead sets out that an applicant who has received an award from a court in respect of a legal case relating to his or her experience in a relevant institution shall not be eligible for a general or work-related payment under this Scheme. This serves as a corollary of the legal waiver which applicants will be asked to sign under Head 22 when accepting a general payment, or a general payment plus a work-related payment, under this Scheme. It could potentially be controlled via Statutory Declaration. It is intended that the waiver will be linked only to those two payments and not to the form of enhanced medical card or health support payment in lieu of the form of enhanced medical card.

Subhead (7) sets out that making an application to the Mother and Baby Institutions Payment Scheme does not preclude an applicant from changing their mind and bringing a case to court instead. The only point at which an applicant is precluded from bringing a case to court is the point at which he or she signs the legal waiver in accordance with Head 22 to accept a general payment, or a general payment plus work-related payment, under the Scheme.

However, in accordance with subhead (6), if an applicant has brought a case to court and received an award or settlement, then the applicant will be rendered ineligible for a payment under the Scheme.

Subhead (8) provides that where the Executive Office has determined the applicant is entitled to a payment, the Executive Office will determine the rate of payment an applicant will be offered in accordance with Schedule 3. The applicant shall be notified as soon as practicable of the decision. If the applicant accepts the offer, payment will be made in accordance with Head 22.

Subhead (9) provides that where the Executive Office determines that the applicant is not entitled to a payment, he or she shall be notified as soon as practicable of that decision.

Subhead (10) provides that an applicant may request that the Executive Office reviews a decision regarding the amount of the payment being offered or a decision that the applicant has not qualified for a payment. Head 25 provides for reviews to be carried out and procedures will be set out in accordance with Head 13 on regulations. It will be possible for an applicant to be provided with a form of enhanced medical card or health support payment under the Scheme, if eligible, while having a decision under this Head reviewed.

Head 19 – Determination of eligibility for health services without charge

Provide along the following lines:

- (1) Subject to subhead (2), where an applicant is a relevant person and has established to the satisfaction of the Chief Deciding Officer that he or she was resident in a relevant institution for a minimum of six months, that applicant shall be eligible for the provision of health services without charge outlined in Head 20 Subhead (1)(a) – (h).
- (2) Where the Chief Deciding Officer has determined that an applicant qualifies for health services without charge, he or she shall notify the Health Service Executive as soon as practicable of that person's eligibility for the health services outlined in Head 20 Subhead (1)(a) – (h).
- (3) Where Head 21 applies and a qualifying applicant chooses to accept a health support payment in lieu of eligibility for health services without charge, the Chief Deciding Officer shall not notify the Health Service Executive of that person's eligibility for the health services outlined in Head 20 subhead (1)(a) – (h).
- (4) A person shall not be eligible for the health services defined in Head 20 subhead (1)(a) – (h) if he or she is already entitled to those same services under the Redress for Women Resident in Certain Institutions Act 2015.
- (5) Where the Chief Deciding Officer determines that an applicant does not qualify for eligibility for health services without charge in accordance with the provisions of this Head, he or she shall notify the applicant as soon as practicable of the decision and an applicant may request the Chief Deciding Officer to review that decision in accordance with Head 25.

Explanatory Notes

Subhead (1) sets out that where an applicant has satisfactorily proved to the staff of the Executive Office that he or she was resident in a relevant institution for a minimum of six months, that applicant shall be eligible for a form of enhanced medical card under the Scheme. The services available under the form of enhanced medical card are included in Head 20 subhead (1)(a) – (h).

Subhead (2) sets out that where an applicant has satisfactorily proved to the staff of the Executive Office that he or she is eligible for a form of enhanced medical card under the Scheme, then the staff shall notify the HSE of this fact as soon as practicable so that the HSE can complete the necessary administrative practicalities to provide the form of enhanced medical card. It is the intention that where an applicant's eligibility for a form of enhanced medical card is affirmed prior to their

potential entitlement to a payment under the Scheme, that the provision of the form of enhanced medical card should be operationalised in advance of a decision being made on an entitlement to a payment. Given that the intention is for the legal waiver to only be linked to the general and work-related payment and not the form of enhanced medical card, then it is assumed that this should be possible.

Subhead (3) sets out that where an applicant has satisfactorily proved to the staff of the Executive Office that he or she is not ordinarily resident in Ireland, in accordance with Head 21, and chooses to accept a health support payment in lieu of a form of enhanced medical card, also in accordance with Head 21, then the staff of the Executive Office shall not notify the HSE that the applicant is eligible for a form of enhanced medical card because the applicant will be deemed to have “forfeited” their eligibility for the card.

Subhead (4) sets out that an applicant will not be eligible for a form of enhanced medical card under this Scheme if they are already eligible for a medical card in accordance with the Redress for Women Resident in Certain Institutions Act 2015 for survivors of Magdalen institutions. This subhead is included for administrative purposes because it is the intention to offer the same health services under the form of enhanced medical card for this Scheme as are offered for the Magdalen Scheme so there is no practical benefit to a person having both of these cards.

Subhead (5) sets out that, where the staff of the Executive Office determine that an applicant does not qualify for a form of enhanced medical card under the Scheme, then the staff will notify the applicant as soon as practicable of that decision. The applicant may request a review of that decision in accordance with Head 25.

Head 20 – Provision of health services without charge

Provide along the following lines:

- (1) Subject to Head 19 subhead (2), the Health Service Executive shall make available without charge to a relevant person-
 - (a) a general practitioner and surgical service,
 - (b) drugs, medicines and medical and surgical appliances for the time being on the Reimbursement List within the meaning of the Health (Pricing and Supply of Medical Goods) Act 2013,
 - (c) the nursing service specified in section 60 of the Act of 1970
 - (d) the home help service specified in section 61 of the Act of 1970, following an assessment of needs made by a registered medical practitioner or a registered nurse that the service is so required,
 - (e) the dental, ophthalmic and aural services specified in section 67 of the Act of 1970,
 - (f) a counselling service, following a referral made in that regard by a registered medical practitioner, relative to a relevant participant's residency in any of the institutions specified in the Schedule,
 - (g) a chiropody service, following a referral made in that regard by a registered medical practitioner or registered nurse, and
 - (h) a physiotherapy service, following a referral made in that regard by a registered medical practitioner.

Explanatory Notes

Subhead (1) replicates the provisions in the Redress for Women Resident in Certain Institutions Act 2015 as the intention is that the form of enhanced medical card which will be provided under this Scheme will provide the same services as the card available to survivors of Magdalen institutions under the RWRCI Act.

With regard to subhead (1)(f), counselling services have been available to survivors of Mother and Baby and County Home Institutions since before the publication of the Commission of Investigation's Final Report through the HSE National Counselling Service. While the intention is that the counselling service will remain available to *all* survivors and this commitment is included in the *Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions*, even when the Mother and Baby Institutions Payment Scheme is launched, including it in the legislation would give survivors eligible for the form of enhanced medical card a statutory basis to access the service. However, this statutory access would be on the basis of referral from a medical practitioner.

Head 21 – Determination of choice of eligibility for health services without charge or health support payment

Provide along the following lines:

- (1) Where an applicant is a relevant person and has established to the satisfaction of the Chief Deciding Officer and in accordance with Head 19 that he or she is eligible for the provision of health services without charge outlined in Head 20 Subhead (1)(a) – (h) and has established that he or she is not resident in Ireland, the Chief Deciding Officer shall inform the applicant that they may choose to accept either-
 - (a) the provision of health services without charge outlined in Head 20 Subhead (1)(a) – (h), or
 - (b) a health support payment in lieu of the provision of health services without charge, in accordance with Head 12.
- (2) Where an applicant chooses a health support payment in accordance with Subhead (1)(b), the Chief Deciding Officer shall ensure the payment is made as soon as practicable.
- (3) A person shall not be eligible for the provision of health services without charge outlined in Head 20 subhead (1)(a) – (h) or a health support payment if she is eligible for the provision of those same services in accordance with the Redress for Women Resident in Certain Institutions Act 2015.
- (4) Where the Chief Deciding Officer determines that an applicant has failed to establish that he or she is not resident in Ireland and is not eligible to choose to accept a health support payment in lieu of the provision of health services without charge under subhead (1)(b), he or she shall notify the applicant as soon as practicable of the decision and an applicant may request the Chief Deciding Officer to review that decision in accordance with Head 25.
- (5) In determining an applicant's residency, the Chief Deciding Officer shall have regard to the procedures set out in any regulation made by the Minister under Head 13.

Explanatory Notes

The intention of this Head is to give effect to the Government approved proposal of providing people who are eligible for a form of enhanced medical card under the Scheme a choice to accept a once-off €3000 payment instead of the card, provided for in Head 12.

Subhead (1) sets out that, where an applicant has satisfactorily proved to the staff of the Executive Office that he or she is eligible for a form of enhanced medical card in accordance with Head 19 and has also satisfactorily proved that he or she is not resident in Ireland, then the applicant should be offered a choice between accepting the card (which they could potentially use when returning to Ireland for visits or if they decide to move back to Ireland in the future) or they could choose to accept a health support payment instead as a contribution towards their individual health needs. The intention is that the health support payment would be a once off payment of €3000. It is not the intention that different rates would be set for residents of different countries.

Subhead (2) sets out that, where an applicant who is not resident in Ireland chooses to accept the health support payment instead of the form of enhanced medical card, then the staff of the Executive Office will direct that the staff of the DCEDIY Finance Unit will make the once-off payment of €3,000 as soon as practicable. The intention is that this could happen prior to any general payment, and work-related payment where relevant, being made to the applicant.

Subhead (3) sets out, similarly to Head 19 subhead (4), that an applicant who lives abroad will not be eligible for a form of enhanced medical card or a health support payment under this Scheme if she is already eligible for a medical card in accordance with the Redress for Women Resident in Certain Institutions Act 2015 for survivors of Magdalen institutions.

Subhead (4) sets out that, where the staff of the Executive Office determine that an applicant has not satisfactorily proved that he or she is not resident in Ireland and is, therefore, not eligible to choose the option of accepting a health support payment in lieu of a form of enhanced medical card, then the applicant will be notified of this decision as soon as practicable. The applicant in this scenario would still be eligible for a form of enhanced medical card but it would be prudent not to inform the HSE of this until any review or appeal process is complete and a final decision issues in relation to the applicant's eligibility to choose to accept a health support payment instead.

Subhead (5) sets out the Executive Office will comply with any procedures prescribed by the Minister under Head 13 for the assessment of an applicant's residency.

Head 22 – Award of payment

Provide along the following lines:

- (1) The Chief Deciding Officer shall, as soon as is practicable, notify the applicant in writing of the payment offered to him or her.
- (2) An applicant may accept or reject the offer of payment made by the Chief Deciding Officer to him or her within six months, or such greater period as may be prescribed, from the date of receiving notice of the award of the payment.
- (3) An applicant may request an internal review of the payment offered in accordance with Head 25.
- (4) If an applicant does not accept, reject or submit for review the payment offer made to him or her within the period referred to in subhead (2) he or she shall be deemed to have rejected the offer.
- (5) Where an applicant accepts an offer in accordance with subhead (2) or an offer made in accordance with a review undertaken under Head 25, the applicant shall agree in writing to waive any right of action which he or she may otherwise have had against a public body and to discontinue any other proceedings instituted by the applicant, against such public body, that arise out of the circumstances of the application before the Chief Deciding Officer.
- (6) Subject to subhead (5), the Chief Deciding Officer will instruct that payment is made to the applicant.
- (7) Where an applicant does not accept an offer within the time and in the manner provided for in this Head and proceeds with any right of action that he or she may have arising out of the same, or substantially the same, circumstances included in an application, the Minister, a public body or any other person, will not in such proceedings to which it is a party rely for the purposes of the Statutes of Limitations on the period between-
 - (a) the date of the application to the Chief Deciding Officer by that applicant, and
 - (b) the date on which the applicant-
 - (i) abandoned his or her application,
 - (ii) was adjudged not entitled to a payment,
 - (iii) rejected an award of payment in accordance with subhead (2) or subhead (4), or
 - (iv) rejected a decision of review in accordance with Head 25

- (8) An applicant who receives an award of payment under this General Scheme shall not institute civil proceedings arising out of the same, or substantially the same, circumstances included in an application in respect of which a public body is a party if such proceedings concern a relevant institution.

Explanatory Notes

The intention of this Head is to give powers for the general payment, and where relevant the work-related payment, to be made to applicants who have satisfactorily proved to the staff of the Executive Office that they are eligible in accordance with Head 18. These two payments are explicitly linked to the legal waiver, whereas it is not the intention to link the form of enhanced medical card or the health support payment to the legal waiver. Therefore, applicants will be asked to sign a declaration when accepting these payments.

The intention is that payments will be issued to applicants via the DCEDIY Finance Unit.

Subhead (1) sets out that the staff of the Executive Office should inform an applicant as soon as practicable of any payment offered to him or her in accordance with the rates set out in regulation.

Subhead (2) sets out that once an offer of a general payment, and where relevant a work-related payment, is made to an applicant then he or she can either accept the offer or reject the offer within a time period of six months. This six month period will give the applicant time to access independent legal advice if they so desire, prior to signing the legal waiver. In certain circumstances, a greater period than six months may be prescribed.

Subhead (3) provides for the applicant to request an internal review of the amount being offered, in accordance with Head 25.

Subhead (4) sets out that, if an applicant does not take one of the courses of action set out in subhead (2) within six months, then he or she will be deemed to have rejected the offer. The intention of this Head is to allow for the Executive Office to be able to close outstanding cases but it may be necessary to allow for a longer time period than six months in certain circumstances.

Subhead (5) sets out that where an applicant accepts an offer of a payment, the applicant shall sign a waiver precluding him or her from taking a case to court against a public body and to cease any other proceedings he or she may have instituted. The subhead refers to any right of action which arise out of the circumstances of the application before the Executive Office.

Subhead (6) intends to set out that, where the legal waiver has been signed by the applicant, then the Executive Office will instruct the DCEDIY Finance Unit to make the payment.

Subhead (7) provides for the time between the date of an application to the Executive Office for the Scheme and the date on which the applicant decided not to proceed with his or her application or was determined not to be entitled to a payment or rejects a payment not to be counted for the purposes of the Statutes of Limitation if the applicant takes a case to court instead. This subhead is modelled on section 7 of the Residential Institutions Redress Act 2002.

Subhead (8) sets out that an applicant who receives a payment from the Scheme shall not bring a civil case arising out of the same, or substantially the same, circumstances included in his or her application in respect of which a public body is a party if such a case concerns a relevant institution. This subhead is modelled on section 7 of the Residential Institutions Redress Act 2002. It is similar to subhead (5) in that it bars the applicant from taking a case to court but the distinction seems to be that in this subhead it is specifically a bar from taking a civil case.

Head 23 – Application on behalf of relevant person

Provide along the following lines:

- (1) A reference in this General Scheme to a relevant person, as appropriate, shall include a reference-
- (a) to a person who has been nominated in writing by the relevant person for the purposes of making an application under this General Scheme,
 - (b) where the donor of a power of attorney is a relevant person, to a person who is the donee of a power of attorney given the power to act on behalf of the donor of the power,
 - (c) where the relevant person is a ward of court, to the Committee of the Person of that ward, duly authorised in that behalf, or
 - (d) to a person appointed by a relevant person to be his or her attorney under an enduring power of attorney where-
 - (i) the attorney is not prohibited or restricted by the terms of the power from performing any matter performable under this General Scheme by an attorney, and
 - ii) the enduring power of attorney has been registered and the registration has not been cancelled
- (2) In subhead (1)-
- “enduring power of Attorney” means a power of attorney within the meaning of section 2 of the Powers of Attorney Act 1996, which is an enduring power construed in accordance with section 5 of that Act;
 - “registration” in relation to an enduring power of attorney means registration under section 10 of the Powers of Attorney Act 1996.

Explanatory notes

This Head is based on the Residential Institutions Statutory Fund Act 2012, section 3, subsection 3. The intention is for it to allow for a person to apply on behalf of a relevant person.

Subhead (1) provides for references to a relevant person, i.e. an applicant, under the General Scheme to include a reference to those listed in the subparagraphs.

Subhead 1(a) relates to a person who a relevant person has nominated in writing for the purposes of making an application on their behalf to the Scheme. A specific declaration form could be prepared for this purpose and provisions put in place for anyone who has difficulty reading or writing.

Subhead 1(b) relates to circumstances surrounding the power of attorney.
Subhead 1(c) refers to a situation where the person is a ward of court.

Subhead 1(d) refers to a person appointed by a relevant person to be his or her attorney under an enduring power of attorney so long as the attorney is not restricted from doing so and the enduring power of attorney has not been cancelled.

Subhead (2) provides that “enduring power of Attorney” has the same meaning as under section 2 of the Powers of Attorney Act 1996 and “registration” has the same meaning as under section 10 of the Powers of Attorney Act 1996.

Head 24 – Deceased relevant person

Provide along the following lines:

- (1) Where a person who would have qualified as an applicant and who did not receive a payment referred to in Head 16 dies after 13 January 2021 and prior to making an application under this General Scheme the children, spouse or civil partner within the meaning of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* of that person may, subject to subhead (3), make an application for a general or a work-related payment on behalf of that deceased person, in accordance with Heads 14 and 18.
- (2) Where an applicant dies after making an application but before a determination is made by the Chief Deciding Officer the children or spouse of that deceased applicant may proceed with the application for a general or work-related payment.
- (3) Where a payment is awarded by the Chief Deciding Officer or in accordance with a Review under Head 25 but the applicant dies before deciding whether to accept or reject it or submit it for Review-
 - (a) if the applicant is survived by a spouse or civil partner or a child of his or hers, he or she or (if there is more than one of them) such one of them as is determined by the Chief Deciding Officer may proceed with the matter as if he or she were the applicant, and
 - (b) if the applicant is survived by neither a spouse nor a civil partner nor a child of his or hers, the applicant shall be deemed, for the purposes of this General Scheme, to have accepted the payment, and the Chief Deciding Officer shall direct that it be paid to the personal representatives of the applicant and that they shall treat it as if it has been paid to the applicant immediately prior to his or her death.
- (4) One application in respect of a person referred to in subhead (1) shall be made to the Chief Deciding Officer.
- (5) Where a payment is made in respect of an application pursuant to this Head, the Chief Deciding Officer shall direct that such payment be paid to the personal representatives of the deceased person referred to in subhead (1) or the applicant referred to in subhead (2) and that the personal representatives shall treat such award as if it had been paid to such deceased person or such applicant immediately prior to his or her death.
- (6) The Chief Deciding Officer shall not direct the making of a payment where the applicant has not provided details of the personal representative at least six months before the date specified in accordance with the regulation made under Head 5 subhead (1).

(7) In this Head “personal representative” has the meaning assigned to it by the Succession Act 1965.

(8) In this Head “spouse”, in relation to a person, includes a civil partner or person with whom the person is or was at a time cohabiting.

Explanatory notes

This Head provides for the spouse or children of an applicant to make an application to the Executive Office on behalf of a deceased relevant person. It is modelled on section 9 of the Residential Institutions Redress Act 2002.

Subhead (1) sets out the deceased relevant person must have died after 13 January 2021, which is the date of the State Apology delivered by the Taoiseach, and before making an application to the Executive Office himself or herself. The children or spouse of the person may make an application on the deceased person’s behalf for a payment, as defined under Head 2, i.e. a general payment and where relevant a work-related payment. It will not be possible for a child or spouse to seek a form of enhanced medical card for the deceased person or a health support payment.

Subhead (2) provides for a spouse or civil partner or children to continue with an application if an applicant dies during the application process. In these circumstances, there should no longer be any eligibility for a form of enhanced medical card.

Subhead (3) sets out what should happen if an applicant dies before accepting or rejecting a payment under the Scheme. In these circumstances, there should no longer be any eligibility for a form of enhanced medical card.

Subhead (3)(a) provides that if the applicant is survived by a spouse, civil partner or a child then the person in question may accept or reject the offer of payment on the applicant’s behalf. If there is more than one spouse, civil partner or child in question then the Executive Office will determine which person is entitled to accept or reject the payment offer. If the offer is rejected, the person will have the right to proceed to a Review.

Subhead (3)(b) provides that if the applicant is not survived by a spouse, civil partner or child then the applicant shall be deemed to have accepted the payment offer. The payment shall be made to the personal representatives of the applicant and treated as if it has been paid to the applicant immediately prior to his or her death.

Subhead (4) sets out that only one application may be made by or on behalf of a deceased person.

Subhead (5) provides that where the Executive Office has determined that the deceased applicant is entitled to a payment under the Scheme, the Executive Office shall direct the Department’s Finance Unit to make the payment to the personal representatives of the deceased person, regardless of who submitted the application.

The payment must be treated as if it had been paid to the deceased person or such applicant immediately prior to his or her death.

Subhead (6) provides that the Chief Deciding Officer shall not make a payment until such time as he or she is informed as to the identity of the personal representative. The details of the personal representative must be provided at least six months before the date specified under Head 5 subhead (1) as the date the Scheme will cease to operate. Under Head 14, applications to the Scheme must be submitted at least one year before the date set out in accordance with Head 5 subhead (1), so this is considered proportionate and it is deemed likely that most applications under these circumstances will be made in the early years of the Scheme's operation.

Subhead (7) provides that the definition of "personal representative" has the same meaning assigned to it by the Succession Act 1965, i.e. the executor or the administrator for the time being of a deceased person.

Subhead (8) provides a definition of the term "spouse", based on the definition used in the Residential Institutions Redress Act 2002.

Head 25 – Reviews of decisions

Provide along the following lines:

- (1) The Chief Deciding Officer may arrange for a review to be carried out in relation to one or more of the matters specified in subhead (2) either-
 - (a) at the request of an applicant,
 - (b) at the request of a person acting on behalf of a relevant person, in accordance with Head 23, or
 - (c) at the request of the child or spouse of a deceased applicant who has made, or proceeded with, an application in accordance with Head 24.
- (2) In carrying out a review under subhead (1) the Chief Deciding Officer shall have regard to any regulations that may be made by the Minister under Head 13.
- (3) The Chief Deciding Officer may examine any or all of the following:
 - (a) a determination concerning the residence and period of residency of an applicant in a qualifying institution which has impacted on a determination made about an applicant's entitlement to a general payment in accordance with Head 18 and, where relevant, the rate of that payment in accordance Schedule 3;
 - (b) a determination concerning the applicant's entitlement to payment in relation to commercial work without pay in accordance with Head 16 and, where relevant, the rate of that payment in accordance with Schedule 3;
 - (c) a determination concerning the applicant's eligibility for the provision of health services without charge in accordance with Head 19;
 - (d) a determination concerning the applicant's eligibility for a health support payment in accordance with Head 21.
- (4) In carrying out a review referred to in subhead (1), the Chief Deciding Officer may require an applicant to provide documentation in relation to any matter that may be relevant to a decision by the Chief Deciding Officer in relation to the matter under review.
- (5) Where the Chief Deciding Officer, having carried out a review under subhead (1), is satisfied that a determination previously made in relation to the matter under review should be altered, the Chief Deciding Officer may decide that the determination be altered accordingly.
- (6) Where the Chief Deciding Officer makes a decision under subhead (5), it shall, not later than 20 working days after the date of the decision, give notice of that decision in writing or by electronic means to the person who requested the review, stating the reasons for the decision.

Explanatory Notes

This Head is loosely modelled on section 17 of the Childcare Support Act 2018. Power to make determinations under this General Scheme are vested in the Chief Deciding Officer but the Chief Deciding Officer has the authority to delegate those powers to his or her staff. Therefore, administrative provisions will be made to allow for staff other than those involved in the original decision-making process concerning an applicant to undertake a review. It is the intention that a Review must take place before an applicant has recourse to the independent appeals process set out in Head 27. Head 27(1)(a) is intended to provide for that.

Subhead (1) provides for the Executive Office to arrange for a review to be carried out in relation to the matters listed under subhead (2). An applicant may request a review, a person acting on behalf of an applicant may request a review or a person acting on behalf of a deceased applicant may request a review.

Subhead (2) provides that the Chief Deciding Officer shall have regard to any regulations that may be made by the Minister under Head 13.

Subhead (3) lists the matters which may be the subject of a review.

Subhead 2(a) relates to a determination made in relation to the period of residency of an applicant in one of the qualifying institutions which has, because of the design of the Scheme, impacted on a determination relating to the applicant's entitlement to a general payment in accordance with Head 18.

Subhead 2(b) relates to a determination made in relation to an applicant's entitlement to a work-related payment in accordance with Head 18. For those mothers who were in Tuam or a County Home, this will be automatically tied to the general payment. For others, this could relate to disputes in relation to information provided in an affidavit.

Subhead 2(c) relates to a determination made regarding an applicant's eligibility for the provision of health services without charge. Ultimately, this is tied to the length of residency, so administratively it may be provided for that this issue could be considered in the round with issues relating to payment. However, because it is the intention to allow for enhanced medical cards to be issued prior to general and work-related payments, a review of this matter specifically may need to be provided for separately.

Subhead 2(d) relates to a determination concerning an applicant's eligibility for a health support payment in lieu of a form of enhanced medical card. This is essentially a question of residency status.

Subhead (4) provides for the Executive Office to require an applicant to provide additional documentation in relation to the subject of a review. While it is unlikely any additional documentation would be needed, it is deemed appropriate to provide the authority for the request to be made should a need arise.

Subhead (5) provides for the Executive Office to have the authority to alter a determination previously made following the review process.

Subhead (6) provides for the Executive Office to inform the applicant of any decision made in relation to the review no more than 20 working days after the decision has been made and to give notice of the decision in writing or electronically. Additional provisions can administratively be put in place for those who may have difficulties reading or writing.

Head 26 – Appeals officer

Provide along the following lines:

- (1) The Chief Deciding Officer, with the consent of the Minister, shall appoint a panel of suitable persons to consider appeals received under Head 27 subhead (1).
- (2) The Minister will appoint appeals officers to the panel referred to in subhead (1) for the duration of the Scheme, in accordance with Head 5.
- (3) An appeals officer shall be independent in the performance of his or her functions under this General Scheme.
- (4) An appeals officer-
 - (a) shall be paid such remuneration and allowances as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines,
 - (b) may be provided with such staff, whose terms and conditions of service and to whom payment of remuneration and allowances shall be such as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines as reasonably necessary to enable the appeals officer to perform his or her functions under this General Scheme.
- (5) The Minister may revoke the appointment of an appeals officer to the panel for stated reasons.

Explanatory notes

This Head provides for an independent appeals process as part of the Scheme and is modelled on Section 21 of the Residential Institutions Statutory Fund Act 2012 and Section 20 of the Childcare Support Act 2018.

Subhead (1) provides for the Chief Deciding Officer to put in place a panel of appeals officers who will likely be engaged as independent contractors by the Department and appointed with the consent of the Minister to consider appeals. The appeals officers should have qualifications and/or previous experience which would deem them suitable for undertaking this role.

Subhead (2) provides for the panel of appeals officers to be in place for the duration of the Scheme.

Subhead (3) provides for appeals officers to be independent in the performance of their functions under this General Scheme.

Subhead (4) provides for the conditions of engaging an appeals officer.

Subhead 4(a) provides that an appeals officer shall be paid and receive allowances in accordance with an agreement between the Minister and the Minister for Public Expenditure and Reform.

Subhead 4(b) provides that, if required, supporting staff should be assigned to support the work of appeals officers. Such support would be administrative in nature and could potentially be undertaken by staff of the Department, subject to agreement between the Minister and the Minister for Public Expenditure and Reform.

Subhead (5) provides that the Minister can revoke the appointment of an appeals officer to the panel for stated reasons.

Head 27 – Appeals

Provide along the following lines:

- (1) The following persons may appeal a decision of the Chief Deciding Officer to an appeals officer:
 - (a) a relevant person who is unhappy with a decision of the Chief Deciding Officer under Head 25;
 - (b) a person acting on behalf of a relevant person in accordance with Head 23 who is unhappy with a decision of the Chief Deciding Officer under Head 25;
 - (c) the child or spouse of a deceased applicant who has made, or proceeded with, an application in accordance with Head 24 and who is unhappy with a decision of the Chief Deciding Officer under Head 25.
- (2) Where the Chief Deciding Officer receives an appeal under subhead (1), he or she shall appoint a suitable person from the panel referred to in Head 26 subhead (1) to consider the appeal.
- (3) An appeal under this Head shall state the reasons for the appeal.
- (4) In considering an appeal under this Head an appeals officer shall-
 - (a) shall have regard to any regulations as may be made by the Minister under Head 13(f),
 - (b) not be confined to the grounds on which the decision of the Chief Deciding Officer was based, but may decide the matter the subject of the appeal as if it were being decided for the first time,
 - (c) subject to procedures prescribed under Head 13(f), as he or she considers appropriate, consider written or oral submissions made by the appellant and consult with the Chief Deciding Officer,
 - (d) make a decision in writing determining the appeal as soon as is practicable in all the circumstances of the case which may be a determination to-
 - (i) confirm the decision the subject of the appeal,
 - (ii) revoke the decision and replace it with such other decision as the appeals officer considers appropriate, or
 - (iii) refer the matter back to the Chief Deciding Officer for reconsideration in accordance with such directions as the appeals officer considers appropriate,
 - and
 - (e) send a copy of the decision to the appellant and the Chief Deciding Officer together with his or her reasons for the decision.

- (5) A person (including the Chief Deciding Officer) affected by a decision under subhead (4)(c) may appeal to the High Court-
- (a) on a point of law from the decision, and
 - (b) not later than 28 days after he or she receives a copy of the decision and the reasons for the decision under subhead (4)(d).
- (6) A decision of the High Court following an appeal under subhead (5) shall, where appropriate, specify the period within which effect shall be given to the decision.
- (7) A decision of the High Court on an appeal under subhead (5) shall be final and conclusive.
- (8) The Chief Deciding Officer shall-
- (a) if applicable, give effect to a decision under subhead (4)(c) as soon as is practicable after the period referred to in subhead (5)(b) has elapsed without any appeal under subhead (5) having been made in respect of that decision.
 - (b) if applicable, give effect to a decision of the High Court on an appeal under subhead (5)-
 - (i) within the period, if any, specified in the decision,
 - (ii) if subparagraph (i) is not applicable, as soon as is practicable.

Explanatory notes

This Head is modelled on Section 22 of the Residential Institutions Statutory Fund Act 2021 and Section 20 of the Childcare Support Act 2018.

Subhead (1) provides for the persons who can make an appeal.

Subhead 1(a) sets out that an applicant who disagrees with a decision provided in accordance with Head 25 on Reviews is entitled to make an appeal. The intention here is to ensure that an applicant must first go through an internal review process before having recourse to an independent appeals process. This is considered proportionate given the design, nature and anticipated scale of the Scheme.

Subhead 1(b) is similar to Subhead 1(a) but relates specifically to the right of a person acting on behalf of a relevant person in accordance with Head 23 to make an appeal.

Subhead 1(c) is also similar to Subhead 1(a) but relates specifically to the right of a person acting on behalf of a deceased relevant person in accordance with Head 24 to make an appeal.

Subhead (2) provides for the Executive Office to appoint an appeals officer from the panel to consider an appeal.

Subhead (3) provides that an appeal shall state the reasons for the appeal.

Subhead (4) sets out what an appeals officer shall consider in an appeal under this Head.

Subhead 4(a) provides that an appeals officer should have regard to any regulations the may be made by the Minister under Head 13.

Subhead 4(b) sets out that an appeal does not have to be confirmed to the grounds on which the decision of the Executive Office was based but can decide the matter as if it were being decided for the first time.

Subhead 4(c) sets out that subject to procedures prescribed, an appeals officer can consider written or oral submissions from the appellant, as he or she deems appropriate, and consult with the Executive Office.

Subhead 4(d) sets out that an appeals officer shall make a decision in writing determining the appeal as soon as practicable and that the decision can confirm the original decision, revoke the decision and replace it with a new one or refer the matter back to the Executive Office for reconsideration in accordance with any directions the appeals officer may wish to provide.

Subhead 4(e) sets out that the appeals officer shall send a copy of the decision to the appellant and the Executive Office along with the reasons for his or her decision.

Subhead (5) sets out that a person affected by the decision of an appeal can appeal to the High Court on a point of law within 28 days of receiving a copy of the decision. This applies to the appellant and the Executive Office.

Subhead (6) provides that a decision under Subhead (5) shall, where appropriate, specify the period within which effect should be given to the decision.

Subhead (7) provides that a decision of the High Court on an appeal shall be final and conclusive.

Subhead (8) provides for what the Executive Office shall do further to the culmination of the appeals process.

Subhead 8(a) sets out that, if applicable, effect should be given to a decision made by an appeals officer under subhead 4(d) as soon as practicable after the 28 days referred to in subhead 5(b) has elapsed without any further appeal being made to the High Court.

Subhead 8(b) sets out that, if applicable, effect should be given to any decision of the High Court under subhead (5) within any period specified in the decision or, where no time period has been specified, as soon as is practicable.

Head 28 – Income and payment

Provide along the following lines:

- (1) For the purposes of the Income Tax Acts, and notwithstanding any provision of those Acts to the contrary-
 - (a) income consisting of a payment under this General Scheme shall be disregarded for the purposes of income tax assessment, and
 - (b) any payment in respect of a payment under this General Scheme shall be treated in all respects as if it were a payment made following the institution, by or on behalf of the applicant to whom the payment is made, of a civil action for damages in respect of personal injury.
- (2) In this Head “Income Tax Acts” has the meaning assigned to it by the Taxes Consolidation Act, 1997.

Explanatory notes

This Head provides that income from a payment under this Scheme shall be disregarded for the purposes of income tax assessment and that any payment from this Scheme shall be treated in all respects as if it were a payment made following a personal injury claim. This Head has been modelled on section 22 of the Residential Institutions Redress Act 2002.

Head 29 – Legal costs and expenses

Provide along the following lines:

- (3) The Scheme may provide financial support to applicants to-
 - (a) seek legal assistance in providing an affidavit to apply to the Scheme, and
 - (b) where relevant, avail of independent legal advice at the point of accepting payment under the Scheme in accordance with Head 22.
- (4) The Chief Deciding Officer shall have regard to any regulations that may be made by the Minister in relation to costs covered under this Head.

Explanatory notes

This Head provides for the provision of financial support to applicants for legal costs and expenses.

Subhead (1) sets out that financial support may be provided to applicants in this regard if the applicant is providing an affidavit to support his or her application and/or where the applicant is availing of independent legal advice at the point of accepting a payment under the Scheme and signing a waiver, in accordance with Head 20.

Subhead (2) sets out that the Chief Deciding Officer should have regard to any regulations the Minister may make to allow for the manner in which reasonable costs under this Head may be covered.

Head 30 – Amendment of section 53C of the Health Act of 1970

Provide along the following lines:

- (1) Subsection (9) of section 53C (inserted by section 12 of the Health (Amendment) Act 2013 and amended by the Redress for Women Resident in Certain Institutions Act 2015) of the Act of 1970 is amended by the insertion of the following paragraph after paragraph (h):

“(i) a relevant person who the Chief Deciding Officer has determined qualifies for health services without charge in accordance with Head 17 subhead 2 of this General Scheme”.

Explanatory Notes

This Head relates to charges for acute in-patient services in hospitals. The approach taken here is based on the approach taken in the Redress for Women Resident in Certain Institutions Act, where Section 53C subsection 9 of the Health Act 1970 was already amended. This Head seeks to add a further category of people to be exempt from paying these charges, that is persons who the Executive Office have deemed eligible for a form of enhanced medical card under this Scheme.

Head 31 – Amendment of Part 3 of Schedule 1 to Nursing Homes Support Scheme Act 2009

Provide along the following lines:

Part 3 of Schedule 1 to the Nursing Homes Support Scheme Act 2009 is amended in paragraph 1, by the insertion of the following paragraph in the definition of “relevant payment” after paragraph (f):

“an *ex-gratia* payment or payments made to the person under the General Scheme of a Mother and Baby Institutions Payment Scheme Bill, and includes any benefit provided under that Scheme”

Explanatory Notes

Schedule 1 of the Nursing Homes Support Scheme Act relates to the assessment of means in relation to that Scheme. This Head provides for the Mother and Baby Institutions Payment Scheme to be added to the list of other Schemes mentioned in Part 3. This is based on the approach taken in the Redress for Women Resident in Certain Institutions Act 2015, where the relevant Part was already amended. It is proposed that it is provided for the payments to be disregarded for the purposes of carrying out a financial assessment under Part 1, Part 1A, Part 2 or Part 2A (as was done in the 2015 Act) because the Nursing Homes Support Scheme Act has already been amended so that anyone who received a “relevant payment” will not be assessed in this way. Therefore, if the Mother and Baby Institutions Payment Scheme is included in the definition of “relevant payments” then this should already be accounted for.

Head 32 – Prohibition on disclosure of information

Provide along the following lines:

- (1) In this Head “confidential information” means information that refers to a relevant person or that could reasonably lead to the identification of a relevant person.
- (2) Except in the circumstances specified in subhead (3) a person shall not disclose confidential information obtained by him or her while performing or as a result of having performed functions as-
 - (a) the Chief Deciding Officer or any of his or her staff,
 - (b) a person engaged by the Chief Deciding Officer to provide consultancy, advice or other services to the Chief Deciding Officer,
 - (c) a person with whom the Chief Deciding Officer makes an arrangement for the provision of approved services,
 - (d) an appeals officer or any staff of the appeals officer, or
 - (e) an employee of a person referred to in (b) or (c).
- (3) A person does not contravene subhead (2) by disclosing confidential information if the disclosure-
 - (a) is made to or authorised by the Chief Deciding Officer,
 - (b) is made to the Garda Síochána where the person is acting in good faith and reasonably believes that such disclosure is necessary in order to prevent an act or omission constituting a serious offence,
 - (c) is in compliance with this General Scheme, or
 - (d) is required by law or an enactment other than this General Scheme.
- (4) Nothing in subhead (2) shall prevent the disclosure of confidential information to a relevant person to whom that information relates.
- (5) A person who contravenes subhead (2) is guilty of an offence.

Explanatory Notes

This Head is loosely based on section 30 of the Institutional Burials Bill (as initiated) 2022.

Subhead (1) provides a definition for confidential information within this General Scheme.

Subhead (2) provides that a person shall not disclose confidential information obtained while performing functions under this General Scheme as set out in the subparagraphs below, unless subhead (3) applies.

Subhead 2(a) specifies the Chief Deciding Officer or any of his or her staff, for the purposes of this Subhead.

Subhead 2(b) specifies a person engaged by the Executive Office to provide consultancy, advice or other services.

Subhead 2(c) specifies a person with whom the Executive Office has made an arrangement for the provision of approved services.

Subhead 2(d) specifies an appeals officer or any of their staff.

Subhead 2(e) specifies an employee of any person to referred to in (b) or (c) above.

Subhead (3) provides that subhead (2) does not apply in the circumstances listed in the subparagraphs below.

Subhead 3(a) specifies that subhead (2) does not apply if the information is disclosed to the Executive Office.

Subhead 3(b) specifies that subhead (2) does not apply if the information is disclosed to the Garda Síochána where the person is acting in good faith and believes the disclosure is necessary to prevent an act or omission constituting a serious offence.

Subhead 3(c) specifies that subhead (2) does not apply if the information is disclosed in compliance with this General Scheme.

Subhead 3(d) specifies that subhead (2) does not apply if the information is disclosed because it is required by law or an enactment other than this General Scheme.

Subhead (4) provides that nothing in subhead (2) shall prevent information being disclosed to a relevant person to whom that information relates.

Subhead (5) provides that a person who contravenes subhead (2) is guilty of an offence.

Head 33 – Review of the scheme

Provide along the following lines:

- (1) The Minister must cause independent reviews of the operation of the scheme to be commenced-
 - (i) as soon as possible after the first anniversary of the scheme start day, and
 - (ii) as soon as possible after the scheme has ceased.
- (2) The reviews shall consider the following matters:
 - (a) the extent to which persons who are eligible for payment under the scheme have applied for payment;
 - (b) the extent to which payments have been provided to persons who are entitled to payment under the scheme;
 - (c) the application, assessment and decision-making process, including user experiences of the process;
 - (d) details of payments;
 - (e) the extent to which eligibility for health services without charge has been provided to persons who are eligible for access to health services without charge under the scheme;
 - (f) the extent to which health support payments in lieu of eligibility for health services without charge have been provided to persons who are eligible to choose to accept a health support payment rather than accept the eligibility for health services without charge;
 - (g) the implications of the scheme's design for those who are eligible for payments under the scheme;
 - (h) the operation of the scheme's funding arrangements;
 - (i) the extent to which the scheme has been implemented as originally proposed;
 - (j) the views of key stakeholders on the scheme;
 - (k) the administration of this General Scheme;
 - (l) the results of any other review or evaluation conducted in relation to the operation of the scheme.
 - (m) any other matter relevant to the administration of the Scheme as may be specified by the Minister"

Explanatory Notes

This Head is based on a recommendation to carry out reviews in the Interdepartmental Group Report on the proposals for the development of the Scheme.

Subhead (1) provides that the Minister must cause an independent review of the operation of the Scheme to be launched as soon as possible after the first anniversary of the start day of the Scheme and another review to be commenced as soon as possible after the scheme has ceased.

Subhead (2) sets out the matters which should be considered as part of the independent reviews.

Head 34 – Additional Institution

Provide along the following lines:

The Minister, with the consent of the Minister for Public Expenditure and Reform, may, by regulation, provide for the insertion in Schedule 2 of any Mother and Baby Institution which was established for the purpose of providing maternity and infant care services and the placement of children for the purposes of adoption, fostering, boarding out or other care arrangements and in respect of which a public body had a regulatory or inspection function.

Explanatory Notes

This Head is somewhat based on Section 4 of the Residential Institutions Redress Act 2002.

The Terms of Reference of the Commission of Investigation lists the fourteen Mother and Baby Homes covered by the investigation. In addition, the Commission selected four of the 30 county homes by way of a representative sample, for investigation. This was on the basis that they fulfilled a function with regard to single women and their children similar to the fourteen named mother and baby homes. It later transpired that St Kevin's Dublin Union and Pelletstown are the same institution, so essentially there were three County Homes in the representative sample rather than four.

The Commission's Second Interim Report found that "the named Mother and Baby Homes being investigated by the Commission [were] unquestionably the main such homes that existed during the 20th century. They all received State funding to a greater or lesser degree. The State was directly responsible for establishing a number of them".

Schedule 1

Institutions

St Patrick's / Pelletstown, Navan Road, Dublin 7

The Tuam Children's Home, Tuam, Co. Galway

Bessborough Mother and Baby Home, Cork

Manor House Castlepollard

Sean Ross Abbey

Árd Mhuire Dunboyne

Bethany Home, Dublin

Denny House, Dublin

Miss Carr's Flatlets, Dublin

The Regina Coeli Hostel, Dublin

The Castle Newtowncunningham, Co. Donegal

The County Clare Nursery, Kilrush, Co. Clare

Belmont Flatlets, Dublin

St. Gerard's, Dublin

Sacred Heart Home and Hospital, Carlow

St. Felim's County Home and Hospital, Cavan

St. Joseph's Hospital, Ennis, Clare

Cork County Home and District, St. Finbarr's

Our Lady of Lourdes Home, Midleton, Cork

Mount Carmel Home, Clonakilty, Cork

St. Patrick's Hospital, Fermoy, Cork

St. Joseph's Home, Stranorlar, Donegal

St. Kevin's Institution (initially the Dublin Union), Dublin

St. Brendan's Home, Loughrea, Galway

St. Columbanus Home, Killarney, Kerry

St. Vincent's Hospital, Athy, Kildare

St. Columba's County Home, Thomastown, Kilkenny

St. Vincent's Hospital, Mountmellick, Laois

St. Patrick's Home, Carrick-on-Shannon, Leitrim

St. Ita's Home, Newcastlewest, Limerick

St. Camillus Hospital, Limerick

St. Joseph's Hospital, Longford

Sacred Heart Home, Castlebar, Mayo

St. Joseph's Home, Trim, Meath

St. Mary's Hospital, Castleblayney, Monaghan

St. Vincent's Hospital, Tullamore, Offaly

Roscommon Sacred Heart Home, Roscommon

St. John's Hospital, Sligo

Hospital of the Assumption, Thurles, Tipperary North

St. Patrick's Hospital, Cashel, Tipperary South
St. John's Hospital, Dungarvan, Waterford
St. Mary's Hospital, Mullingar, Westmeath
St. John's Hospital, Enniscorthy, Wexford
St. Colman's, Rathdrum, Wicklow

Schedule 2

Information source

- (1) a local authority (for the purposes of the Local Government Act 2001);
- (2) the Health Service Executive
- (3) the Child and Family Agency
- (4) A person prescribed under Head 15(5)

Schedule 3

Payment Rates

Time Spent in a Mother and Baby or County Home Institution	General Payment for mothers and children (€)	Work Payment (for mothers who qualify only) (€)	Total Amount if qualifying for general payment and work payment (€)
Less than 3 months (mothers only)	5,000	-	5,000
Between 3 and 6 months (mothers only)	10,000	1,500	11,500
Between 6 months and 1 Year	12,500	3,000	15,500
1 - 2 Years	15,000	6,000	21,000
2 – 3 Years	20,000	12,000	32,000
3 - 4 Years	25,000	18,000	43,000
4 – 5 Years	30,000	24,000	54,000
5 – 6 Years	40,000	30,000	70,000
6 – 7 Years	45,000	36,000	81,000
7 – 8 Years	50,000	42,000	92,000
8 – 9 Years	55,000	48,000	103,000
9 – 10 Years	60,000	54,000	114,000
10 Years + (MAX)	65,000	60,000	125,000