





# **National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024**

**No. 9, 2024**

**An Act to amend the *National Redress Scheme for  
Institutional Child Sexual Abuse Act 2018*, and for  
related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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***An Act to amend the *National Redress Scheme for  
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*[Assented to 28 March 2024]*

The Parliament of Australia enacts:

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*No. 9, 2024*

*National Redress Scheme for Institutional Child Sexual Abuse  
Amendment Act 2024*

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## 1 Short title

This Act is the *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 March 2024
2. Schedule 1	The day after the end of the period of 7 days beginning on the day this Act receives the Royal Assent.	4 April 2024
3. Schedule 2	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

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### **3 Schedules**

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendments to existing processes

### Part 1—Review of determinations

#### *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*

##### 1 Section 72

Omit:

An application for review must be made within the period specified in the notice of determination given by the Operator to the person under section 34.

substitute:

An application for review must be made within the period specified in the notice of determination given by the Operator to the person under section 34. The application may be accompanied by information and documents the person considers may be relevant to the review of the determination.

The reviewer may request the person who applied for review and participating institutions or partly-participating institutions to provide further information that may be relevant to the review (see sections 75A and 75B).

##### 2 At the end of section 73

Add:

- (3) The application for review may be accompanied by information and documents the person considers may be relevant to the review of the original determination.

##### 3 Subsection 75(2)

After “person”, insert “(the *reviewer*)”.

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#### **4 Subsection 75(3)**

Repeal the subsection, substitute:

- (3) When reviewing the original determination, the reviewer may have regard to the following:
- (a) the information and documents that were available to the person who made the original determination;
  - (b) any information and documents that accompany the application for review;
  - (c) further information requested under section 75A or 75B.
- (4) The review determination must not have the effect of reducing the amount of the redress payment determined in the original determination, unless the reviewer is satisfied that:
- (a) either:
    - (i) the reduction is the result of considering information mentioned in paragraph (3)(b) or (c); or
    - (ii) the Operator has reasonable grounds to believe that information given, a document produced, or a statement made to an officer of the scheme in relation to the application for redress, or the application for review, is false or misleading in a material particular; and
  - (b) the reduction is appropriate, having regard to the principles set out in section 10.

Note: A person may be liable to a civil penalty or commit an offence if the person gives information, produces a document or makes a statement to an officer of the scheme and the person knows, or is reckless as to whether, the information, document or statement is false or misleading in a material particular (see section 28 of this Act and sections 136.1, 137.1 and 137.2 of the *Criminal Code*).

#### **5 After section 75**

Insert:

##### **75A Obtaining further information for the review from the applicant**

- (1) If the reviewer has reasonable grounds to believe that the person who has applied for review has information that may be relevant to

the review, then the reviewer may request the person to give the information to the reviewer.

- (2) Subsections 24(2) to (7) apply in relation to the request by the reviewer to the person in the same way as they apply in relation to a request under subsection 24(1) by the Operator to a person.
- (3) For the purposes of subsection (2) of this section, in applying subsections 24(2) to (7), treat references to section 24 and its subsections as references to those provisions as they apply in relation to the request because of this section.
- (4) If the information requested is not provided within the production period mentioned in paragraph 24(3)(c) (as it applies in relation to the request by the reviewer), the reviewer is not required to make the review determination until the information is provided.

### **75B Obtaining further information for the review from institutions**

- (1) If the reviewer has reasonable grounds to believe that a participating institution or partly-participating institution has information that may be relevant to the review, then the reviewer may request the institution to give the information to the reviewer.
- (2) Subsections 25(3) to (8) apply in relation to the request by the reviewer to the institution in the same way as they apply in relation to a request under subsection 25(2) by the Operator to a participating institution or partly-participating institution.
- (3) For the purposes of subsection (2) of this section, in applying subsections 25(3) to (8), treat references to section 25 and its subsections as references to those provisions as they apply in relation to the request because of this section.
- (4) If the information requested is not provided within the production period mentioned in paragraph 25(4)(c) (as it applies in relation to the request by the reviewer), the reviewer may conduct the review and make the review determination on the basis of the information that has been obtained by, or provided to, the reviewer.

**75C State or Territory laws do not prevent complying with request**

Nothing in a law of a State or a Territory prevents a person from giving information that the person is requested to give to the reviewer under section 75A or 75B unless that law is prescribed by the rules.

Note: Section 28 (false or misleading information, documents or statements) applies in relation to a request made under section 75A or 75B.

## **Part 2—Serious criminal convictions and applications by persons in gaol**

### *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*

#### **6 Paragraph 20(1)(d)**

Repeal the paragraph.

#### **7 Subsection 20(2)**

Omit “Paragraphs (1)(d) and (e) do”, substitute “Paragraph (1)(e) does”.

#### **8 Section 62**

Omit:

If a person is sentenced to imprisonment for 5 years or longer for an offence against the law of the Commonwealth, a State, a Territory or a foreign country, the person will not be entitled to redress unless the Operator makes a determination under subsection 63(5). Division 2 deals with that case.

substitute:

A person is not entitled to redress under the scheme if:

- (a) the person is sentenced to imprisonment for 5 years or longer for unlawful killing, a sexual offence, a terrorism offence, or certain related offences; or
- (b) the Operator has determined under subsection 63(2B) that the person should undergo a special assessment process;

unless the Operator makes a determination under subsection 63(5). Division 2 deals with that case.

#### **9 Subsection 63(2)**

Repeal the subsection, substitute:

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- (2) For the purposes of subsection 12(4), the person is not entitled to redress under the scheme if:
- (a) the sentence mentioned in paragraph (1)(b) of this section is for any of the following offences:
    - (i) unlawful killing, attempting to commit an unlawful killing, or conspiring to commit an unlawful killing;
    - (ii) a sexual offence or an offence that includes the intention to commit a sexual offence;
    - (iii) a terrorism offence within the meaning of the *Crimes Act 1914*;
    - (iv) an offence against a law of a State, a Territory or a foreign country that the Operator is satisfied is substantially similar to a terrorism offence within the meaning of the *Crimes Act 1914*; or
  - (b) the Operator has determined under subsection (2B) of this section that the person should undergo a special assessment process;
- unless there is a determination in force under subsection (5) of this section that the person is not prevented from being entitled to redress.

*Consideration of whether person should undergo a special assessment process*

- (2A) As soon as practicable after becoming aware of the person's sentence, and if paragraph (2)(a) does not apply, the Operator must consider whether the person should undergo a special assessment process.
- (2B) The Operator may determine that the person should undergo a special assessment process if the Operator considers there are exceptional circumstances that make it likely that providing redress to the person under the scheme may bring the scheme into disrepute or adversely affect public confidence in, or support for, the scheme.
- (2C) When making a determination under subsection (2B), the Operator may have regard to the matters set out in paragraphs 63(6)(b) to (f).

*Special assessment process*

**10 Subsection 63(3)**

Omit all the words before paragraph (a), substitute:

- (3) If:
- (aa) the person's sentence is for an offence covered by paragraph (2)(a); or
  - (ab) the Operator has determined under subsection (2B) that the person should undergo a special assessment process;
- the Operator must, as soon as practicable after becoming aware of the sentence or making the determination:

## **Part 3—Protected information**

### **Division 1—Main amendments**

#### *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*

#### **11 After section 95A**

Insert:

#### **95B Additional authorisation—Operator disclosing to applicant that institution is not participating in the scheme**

- (1) The Operator may disclose to a person that a non-government institution is not a participating institution if:
  - (a) either or both of the following apply:
    - (i) the person has applied for redress under the scheme and the application identifies the institution as being involved in the abuse of the person;
    - (ii) the Operator has reasonable grounds to believe that the institution may be connected with abuse of the person that is within the scope of the scheme; and
  - (b) the institution is not a participating institution or a partly-participating institution.
- (2) The Operator may also disclose to the person any of the matters set out in paragraphs 95A(2)(c) to (i) that are applicable.
- (3) To avoid doubt, the Operator may disclose information under this section even if the information is protected information.
- (4) In making a disclosure to the person under this section, the Operator must not disclose the identity of any other person who:
  - (a) has applied for redress under the scheme; or
  - (b) the Operator has reasonable grounds to believe may have been abused.

## 12 After section 96

Insert:

### 96A Additional authorisation—Operator disclosing to public trustee etc. in relation to financial management orders

- (1) The Operator may disclose protected information for any of the purposes specified in subsection (2) to a government institution specified in subsection (3) if:
  - (a) the protected information is about a person who applied for redress (the *applicant*); and
  - (b) the Operator believes, on reasonable grounds, that the applicant is, or may become, subject to an order (a *financial management order*) under which another person is appointed by a court, tribunal or board, or other entity prescribed by the rules, under a law of the Commonwealth, a State or a Territory to manage all or part of the person's property or financial affairs or matters.
- (2) The Operator may disclose protected information to the government institution under subsection (1) for any of the following purposes (a *relevant purpose*):
  - (a) ascertaining whether the applicant is subject to a financial management order;
  - (b) ascertaining whether the government institution has management of the applicant's affairs under a financial management order;
  - (c) if the government institution has management of the applicant's affairs under a financial management order—providing the institution such information as is necessary for it to manage the applicant's affairs under the financial management order in relation to the applicant's redress application;
  - (d) any other purpose that is:
    - (i) related to dealing with applicants who are, or may become, subject to a financial management order; and
    - (ii) prescribed by the rules.

- (3) Government institutions to which protected information may be disclosed under subsection (1) are as follows:
- (a) the Public Trustee of a State or a Territory;
  - (b) a government institution that can be, or the employees of which can be, given responsibility for managing the affairs of an individual under a financial management order;
  - (c) a government institution prescribed by the rules.

*Disclosure, use etc. by government official*

- (4) If protected information is disclosed to a government institution under subsection (1), then an employee or officer of the institution (the **government official**) may:
- (a) obtain the information; or
  - (b) make a record of the information; or
  - (c) disclose the information to a person; or
  - (d) use the information;
- but only if the government official does so for a relevant purpose in the official's capacity as an employee or officer of the government institution.
- (5) Section 97 does not apply in relation to protected information that is disclosed to a government institution under subsection (1) of this section.

*Conditions*

- (6) The Operator may, in writing, impose conditions to be complied with in relation to protected information disclosed under subsection (1).
- (7) A person commits an offence if:
- (a) the person is subject to a condition under subsection (6); and
  - (b) the person engages in conduct (within the meaning of the *Criminal Code*); and
  - (c) the person's conduct breaches the condition.

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

- (8) An instrument under subsection (6) is not a legislative instrument.

**13 Paragraph 98(2)(d)**

Repeal the paragraph, substitute:

- (d) in any case—the purpose of either of the following undertaking investigation and disciplinary procedures:
  - (i) the institution;
  - (ii) if the institution is a member of a participating group—another member of the group.

**14 At the end of section 98**

Add:

- (4) If the person obtains protected information for the purpose covered by subparagraph (2)(d)(ii), the person may record, disclose or use the protected information for only that purpose.

## **Division 2—Other amendments**

### ***Freedom of Information Act 1982***

#### **15 Schedule 3**

Omit “*National Redress Scheme for Institutional Child Sexual Abuse Act 2018*, subsections 96(6)”, substitute “*National Redress Scheme for Institutional Child Sexual Abuse Act 2018*, subsections 96(6), 96A(7)”.

## Part 4—Funder of last resort

### *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*

#### **16 Paragraph 165(2)(b)**

After “redress payment”, insert “(to the extent that it relates to the abuse)”.

#### **17 At the end of paragraph 165A(4)(a)**

Add “(to the extent that it relates to the abuse)”.

#### **18 Paragraph 165A(7)(a)**

After “redress payment”, insert “(to the extent that it relates to the abuse)”.

#### **19 At the end of section 165A**

Add:

##### *Rounding*

- (15) If an amount worked out under subsection (5) or (10) or paragraph (14)(c) is not a whole number of cents, round the amount up to the next whole number of cents.

## **Part 5—Application and transitional provisions**

### *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*

#### **20 At the end of Chapter 8**

Add:

## **Part 8-5—Application and transitional provisions relating to the National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024**

#### **209 Definitions**

In this Part:

*amending Act* means the *National Redress Scheme for Institutional Child Sexual Abuse Amendment Act 2024*.

#### **210 Application of amendments made by Schedule 1 to the amending Act**

*Applications for review*

- (1) The amendments made by Part 1 of Schedule 1 to the amending Act apply in relation to applications for review made under section 73 on or after the commencement of that Schedule.
- (2) If:
  - (a) before the commencement of Schedule 1 to the amending Act, a person had made an application for review under section 73; and
  - (b) at the commencement of that Schedule, the review had not been completed;

then:

- (c) the Operator must notify the person of the amendments made by Part 1 of that Schedule; and
  - (d) the reviewer must not make a review determination under section 75 in relation to the application for review before the earlier of the following:
    - (i) 30 days after the date of the notification;
    - (ii) if, in response to the notification, the person gives the reviewer further information or documents that the person considers may be relevant to the review—the day after the Operator receives the further information or documents; and
  - (e) if the person gives the reviewer further information or documents that the person considers may be relevant to the review:
    - (i) the amendments made by Part 1 of that Schedule apply in relation to the application for review; and
    - (ii) the further information or documents are to be treated as information or documents accompanying the application for review under subsection 73(3).
- (3) If:
- (a) before the commencement of Schedule 1 to the amending Act, a person had made an application for review under section 73; and
  - (b) at the commencement of that Schedule, a review determination had been made under section 75 in relation to the application for review; and
  - (c) the Operator has given the person an offer of redress under section 39; and
  - (d) the person has not accepted or declined the offer of redress;
- then:
- (e) the Operator must notify the person of the amendments made by Part 1 of that Schedule; and
  - (f) if the acceptance period for the offer of redress ends during the period of 30 days after the date of the notification (the **response period**)—the Operator must extend the acceptance period under subsection 40(2) to end after the response period; and

- (g) if, during the response period, the person gives the Operator further information or documents that the person considers may be relevant to the review:
  - (i) the review determination is taken to never have been made; and
  - (ii) if the Operator has given the person a new written offer of redress under paragraph 78(3)(b)—the new written offer of redress is taken to never have been given; and
  - (iii) the amendments made by Part 1 of that Schedule apply in relation to the application for review; and
  - (iv) the further information or documents are to be treated as information or documents accompanying the application for review under subsection 73(3).
- (4) The rules may prescribe matters relating to the giving of notices to a person or a participating institution in relation to the operation of subsection (3).

*Special assessment processes*

- (5) If:
  - (a) before the commencement of Schedule 1 to the amending Act, the Operator had given a written notice under paragraph 63(3)(b) in relation to a person's sentence of imprisonment; and
  - (b) at the commencement of that Schedule, the Operator had not made a determination in relation to the person under subsection 63(5);the Operator is taken to have determined under subsection 63(2B) that the person should undergo a special assessment process.
- (6) To avoid doubt, the Operator may, in writing, revoke a determination that the Operator is taken to have made under subsection (5).

*Protected information*

- (7) The amendments of section 98 made by Division 1 of Part 3 of Schedule 1 to the amending Act apply in relation to a person obtaining, recording, disclosing or using protected information on or after the commencement of that Schedule.

## Schedule 2—Reassessment of determinations

### *National Redress Scheme for Institutional Child Sexual Abuse Act 2018*

#### 1 Section 6

Insert:

*reassessment contribution*: see subsection 71Y(2).

*reassessment deficit*: see subsection 71X(3).

*reassessment surplus*: see subsection 71X(4).

#### 2 Section 6 (definition of *redress payment*)

Omit “48 or 60”, substitute “48, 60 or 71Q”.

#### 3 At the end of subsection 29(4)

Add:

Note: A provision of this Act may also require or permit the Operator to revoke a determination made under subsection (2) or (3) (see, for example, paragraph 71S(3)(d) and subsection 71S(4)).

#### 4 Subsection 29(6)

Omit “or (3), then”, substitute “or (3) (including under paragraph 71S(3)(d) or subsection 71S(4)), then”.

#### 5 Subsection 54(1)

Omit “44 or 46B”, substitute “44, 46B or 71L”.

#### 6 After subsection 71(2)

Insert:

(2A) If, at the time a security notice comes into force in relation to a person:

(a) the person has agreed under section 71B to have the Operator reassess a determination on an application for redress; and

(b) a reassessment decision has not been made under section 71D in relation to the determination;  
 then, at that time, the person is taken to have revoked the person's agreement to have the Operator reassess the determination under subsection 71C(1).

- (2B) If, at the time a security notice comes into force in relation to a person:
- (a) the person has agreed under section 71B to have the Operator reassess a determination on an application for redress; and
  - (b) a new offer of redress has been given to the person under section 71G; and
  - (c) the offer has not been accepted, declined or withdrawn;
- then, at that time:
- (d) the new offer of redress is taken to be withdrawn; and
  - (e) the reassessment decision made under section 71D on the determination is taken to be revoked by the Operator; and
  - (f) the person is taken to have revoked the person's agreement to have the Operator reassess the determination under subsection 71C(1).

## **7 At the end of Chapter 3**

Add:

### **Part 3-3—Special rules about reassessment of determinations**

#### **Division 1—Simplified outline of this Part**

##### **71A Simplified outline of this Part**

If:

- (a) the Operator has made a determination under section 29 to approve an application for redress by a person; and
- (b) the person has been given an offer of redress and the person has accepted or declined the offer; and

- (c) the Operator has reasonable grounds to believe that an institution identified in the application, or in the course of dealing with the application, may be connected with abuse of the person; and
- (d) at the time the determination was made, the institution was not a participating institution or listed for a participating jurisdiction under section 164, 164A, 164B or 164C; and
- (e) at a later time, the institution becomes a participating institution or is listed for a participating jurisdiction under section 164, 164A, 164B or 164C;

then the person (the *reassesse*) may agree, by written notice given to the Operator, to have the Operator reassess the determination under this Part. The Operator must give notice of the reassessee's agreement to relevant institutions and participating jurisdictions. The reassessee may revoke the reassessee's agreement at any time before the Operator reassesses the determination. If the reassessee revokes the agreement, the Operator must give notice of the revocation to the relevant institutions and participating jurisdictions.

If the reassessee agrees to have the Operator reassess the determination, the Operator must reassess the determination and make a decision (the reassessment decision), in writing, affirming the determination or setting it aside and substituting a new determination. The Operator must give the reassessee notice of the reassessment decision.

If the Operator makes a reassessment decision to set aside the determination and substitute a new determination, the Operator must give the reassessee a new offer of redress. The reassessee may accept or decline the new offer of redress.

If the reassessee declines the new offer of redress, the current determination and anything done based on the current determination is not affected, and the new determination has no effect from the time the new offer of redress is declined.

If the reassessee accepts the new offer of redress, the new determination is taken to be the determination made by the

Operator under section 29 and the new offer of redress, the reassessee's acceptance of the new offer and the acceptance document given by the reassessee are taken to have effect as provided by section 71K. The Operator must give relevant institutions and participating jurisdictions a notice stating certain matters relating to the reassessment decision.

Special rules apply if the reassessee dies before the new offer of redress is accepted, declined or withdrawn, or before the reassessment decision is made, or before the determination under section 29 is identified for reassessment. Division 4 deals with those cases.

The Operator must identify each determination made under section 29 that may be eligible for reassessment under this Part (see section 71R) and must take certain action in relation to each identified determination. Division 5 deals with this.

The reassessee may apply to the Operator for review of the reassessment decision (see Division 6 of this Part). Division 2 of Part 4-1 (with some modifications) applies in relation to the review.

If the Operator makes a reassessment decision that sets aside a determination made under section 29 in relation to a person and substitutes a new determination, the amount of funding contribution that a participating institution or funder of last resort may be liable to pay for a quarter may change. Division 7 deals with this.

## **Division 2—Reassessment of determinations**

### **71B Reassessment of determinations**

- (1) This section applies if:
  - (a) a person has made an application for redress under the scheme; and
  - (b) the Operator has made a determination to approve the application under section 29 (the *current determination*); and

- (c) the person has been given an offer of redress and the person has accepted or declined the offer; and
- (d) the Operator has reasonable grounds to believe that an institution identified in the application, or in the course of dealing with the application, may be connected with abuse of the person; and
- (e) at the time the current determination was made, the institution was not a participating institution or listed for a participating jurisdiction under section 164, 164A, 164B or 164C; and
- (f) at a later time, the institution becomes a participating institution or is listed for a participating jurisdiction under section 164, 164A, 164B or 164C.

Note: Generally, when the institution becomes a participating institution or is listed for a participating jurisdiction under section 164, 164A, 164B or 164C, the Operator will invite the person to agree to have the Operator reassess the determination (see section 71S).

- (2) The person (the *reassesse*) may agree, by written notice given to the Operator, to have the Operator reassess the current determination under this Part.
- (3) A notice under subsection (2) must be given to the Operator at least 12 months before the scheme sunset day, unless the Operator determines there are exceptional circumstances justifying the application being made after that time.

*Notice to participating institutions etc.*

- (4) The Operator must give written notice of the reassessee's agreement to the following:
  - (a) each institution determined in the current determination as a participating institution or partly-participating institution;
  - (b) each participating jurisdiction (other than the Commonwealth) that is determined in the current determination under paragraph 29(2)(k);
  - (c) each institution covered by paragraph (1)(f) of this section;
  - (d) if an institution covered by paragraph (a) or (c) of this subsection is listed for a participating jurisdiction—that participating jurisdiction.

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- (5) However, the Operator does not need to give a notice under subsection (4) in the circumstances (if any) prescribed by the rules.

### **71C Revoking agreement to reassessment**

- (1) The reassessee may give the Operator a written notice revoking the reassessee's agreement under subsection 71B(2) to have the Operator reassess the current determination at any time before the Operator reassesses the current determination.
- (2) If the reassessee revokes the reassessee's agreement, the reassessee is taken to never have agreed to have the Operator reassess the current determination.

*Notice to participating institutions etc.*

- (3) The Operator must give written notice of the revocation of the reassessee's agreement to each institution and participating jurisdiction that was given written notice of the reassessee's agreement under subsection 71B(4).
- (4) The notice must comply with any matters prescribed by the rules.

### **71D The Operator must make a reassessment decision**

- (1) This section applies if the reassessee has agreed to have the Operator reassess the current determination.
- (2) The Operator must, as soon as practicable, reassess the current determination and make a decision (the **reassessment decision**), in writing, doing one of the following:
- (a) affirming the current determination;
  - (b) setting the current determination aside and substituting a new determination.

Note: A reassessment decision setting the current determination aside and substituting a new determination does not affect the current determination unless the new offer made based on the new determination is accepted. If that occurs, the new determination set out in the reassessment decision is substituted for the current determination (see section 71K).

- (3) The following provisions apply in relation to making the reassessment decision in the same way as they apply in relation to making a determination on an application for redress:
- (a) Division 3 of Part 2-3 (obtaining information for the purposes of determining the application);
  - (b) subsection 29(2) (determination to approve the application), other than paragraph (a) of that subsection;
  - (c) sections 30 and 31 (working out amounts of redress payment, counselling and psychological component and share of costs);
  - (d) subsection 33(1) (assessment framework policy guidelines);
  - (e) subsections 165(2) and (3) (special rules for funder of last resort cases);
  - (f) subsections 165A(2) to (13) (special rules for funder of last resort cases—participating jurisdictions).
- (4) For the purposes of applying provisions under subsection (3), apply those provisions in relation to making the reassessment decision, subject to the following:
- (a) treat a reference to a provision of this Act as a reference to that provision as it applies in relation to the reassessment decision because of this Part;
  - (b) treat a reference to an offer of redress as a reference to a new offer of redress under section 71G;
  - (c) in applying step 4 of the method statement in subsection 30(2):
    - (i) in relation to an institution and a relevant prior payment that was paid at a time before the first time the Operator made a determination under section 29 on the application for redress—treat the definition of *n* as being instead the number of whole years between those times; and
    - (ii) in relation to an institution covered by paragraph 71B(1)(f) and a relevant prior payment that was paid after the first time the Operator made a determination under section 29 and before the reassessment decision was made—treat the definition of *n* as being instead the number of whole years since the relevant prior payment was paid;
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- (d) ignore step 4 of the method statement in subsection 30(2) in relation to an institution other than an institution covered by paragraph 71B(1)(f), and a relevant prior payment that was paid after the first time the Operator made a determination under section 29 and before the reassessment decision was made;
  - (e) subsection (5) of this section applies if the amount of redress payment for the reassessee worked out by applying subsection 30(5) (ignoring the effect of this paragraph) is less than the amount of redress payment for the reassessee set out in the current determination (the *current redress amount*);
  - (f) subsections (6) and (7) of this section apply if the reassessee has previously accepted an offer of redress in connection with the application for redress;
  - (g) if the rules prescribe further modifications to how the amounts mentioned in sections 30 and 31 (including as modified by sections 165 and 165A) are worked out—those further modifications.
- (5) For the purposes of paragraph (4)(e), treat the difference between the institutions' total share (worked out by applying subsection 30(3)) and the current redress amount as the Commonwealth's share of the costs of the redress payment (instead of the amount worked out by applying subsection 30(4)).
- (6) For the purposes of paragraph (4)(f):
- (a) if the Operator has, in the current determination, determined under paragraph 29(2)(b) that a participating institution is responsible for the abuse—treat the institution as a participating institution (even if the institution is defunct or is a partly-participating institution at the time the reassessment decision is made); and
  - (b) if the Operator has, in the current determination, determined under paragraph 29(2)(h) that a participating institution is not responsible for the abuse—treat the institution as a participating institution (even if the institution is defunct or is a partly-participating institution at the time the reassessment decision is made); and
  - (c) if the Operator has, in the current determination, determined under paragraph 29(2)(i) that a participating government
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institution is a funder of last resort for a defunct institution in relation to the abuse—treat the government institution (whether or not it is a participating government institution at the time the reassessment decision is made) as the funder of last resort for the defunct institution; and

- (d) if the Operator has, in the current determination, determined under paragraph 29(2)(k) that a participating jurisdiction is a funder of last resort for an institution in relation to the abuse—treat the jurisdiction (whether or not it is a participating jurisdiction at the time the reassessment decision is made) as the funder of last resort for the institution.
- (7) However, subsection (6) does not apply in relation to an institution if:
- (a) the institution is covered by paragraph 71B(1)(f); or
  - (b) if a paragraph of subsection (6) of this section applied to the institution—the Operator intends, in the reassessment decision, to determine the institution under a paragraph of subsection 29(2) that is different from the paragraph of subsection 29(2) mentioned in the relevant paragraph of subsection (6) of this section.

#### **71E Notice and effect of reassessment decision**

- (1) This section applies if the Operator has reassessed the current determination and made the reassessment decision.
- (2) The following provisions apply in relation to the reassessment decision in the same way as they apply in relation to a determination under section 29 on an application for redress:
  - (a) section 34 (notice of determination to applicant);
  - (b) Division 6 of Part 2-3 (effect of determination and admissibility of evidence in civil proceedings).
- (3) For the purposes of applying provisions under paragraph (2)(a) or (b), apply those provisions in relation to the reassessment decision, subject to the following:
  - (a) treat the reassessee as the person mentioned in subsection 34(1);

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- (b) treat a reference to a provision of this Act as a reference to that provision as it applies in relation to the reassessment decision because of this Part;
  - (c) treat a reference to the application being approved as a reference to the reassessment decision setting the current determination aside and substituting a new determination;
  - (d) treat a reference to the application not being approved as a reference to the reassessment decision affirming the current determination;
  - (e) treat a reference to whether or not the application has been approved as a reference to whether the current determination has been affirmed under paragraph 71D(2)(a) or the current determination has been set aside and a new determination substituted under paragraph 71D(2)(b);
  - (f) treat the reference in paragraph 34(1)(c) to section 73 as a reference to section 71T;
  - (g) treat the reference in subsection 34(2) to the offer of redress under section 39 as a reference to the new offer of redress under section 71G;
  - (h) treat a reference in section 37 to a person's application for redress as a reference to the reassessee's agreement to have the Operator reassess the current determination.

#### **71F Notice of decision to affirm current determination to participating jurisdictions and institutions**

- (1) This section applies if:
  - (a) the Operator has reassessed the current determination; and
  - (b) the reassessment decision is to affirm the current determination; and
  - (c) either:
    - (i) if subparagraph (ii) does not apply—the review period mentioned in section 34 (as it applies in relation to the reassessment decision because of section 71E) has passed; or
    - (ii) if the reassessee has applied to the Operator for review of the reassessment decision under section 71T—the review has been completed.

- (2) The Operator must give written notice of the reassessment decision to each institution and participating jurisdiction that was given written notice of the reassessee's agreement under subsection 71B(4).
- (3) The notice must comply with any requirements prescribed by the rules.
- (4) However, the Operator does not need to give a notice under subsection (2) in the circumstances (if any) prescribed by the rules.

### **Division 3—New offers of redress**

#### **71G New offer of redress**

- (1) This section applies if:
    - (a) the Operator has reassessed the current determination; and
    - (b) the reassessment decision is to set aside the current determination and substitute a new determination.
  - (2) The Operator must give the reassessee a new offer of redress that complies with:
    - (a) paragraphs 39(a) to (t) (offers of redress), other than paragraphs (r) and (ra); and
    - (b) subsection (4) of this section; and
    - (c) if applicable, subsection (5) of this section.
  - (3) For the purposes of paragraph (2)(a), apply paragraphs 39(a) to (t) in relation to the new offer of redress, subject to the following:
    - (a) treat a reference to a provision in section 29 as a reference to that provision as it applies in relation to the new determination because of this Part;
    - (b) treat paragraph 39(p) as referring instead to the effect of section 71J and the effect of section 43, as it applies in relation to the new offer of redress because of section 71H;
    - (c) if the rules prescribe further modifications to the content of the new offer of redress as set out in paragraphs 39(a) to (t)—those further modifications.
  - (4) For the purposes of paragraph (2)(b), the new offer of redress must:
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- (a) inform the reassessee that, if the reassessee declines the new offer of redress, there will be no change to the existing arrangements (including those arising out of the acceptance or declining of the offer of redress made based on the current determination); and
  - (b) specify the differences between the current determination and the new determination, including any difference between the amount of redress payment the reassessee is, or was, entitled to under the current determination and the amount of redress payment the reassessee would be entitled to if the reassessee accepts the new offer of redress; and
  - (c) specify:
    - (i) the amount (if any) of redress payment based on the current determination that has been paid to the reassessee; and
    - (ii) the amount (if any) of redress payment based on the current determination that has not yet been paid to the reassessee; and
    - (iii) the additional amount (if any) of redress payment based on the new determination that would be payable to the reassessee if the new offer of redress is accepted; and
  - (d) comply with any requirements prescribed by the rules.
- (5) For the purposes of paragraph (2)(c), if:
- (a) the reassessee had previously accepted an offer of redress based on the current determination; and
  - (b) the previous acceptance document stated that the reassessee wished to receive any or all of the following components of redress:
    - (i) a redress payment;
    - (ii) the counselling and psychological component of redress;
    - (iii) a direct personal response from a specified institution;
- then the new offer of redress must inform the reassessee that, if the reassessee accepts the new offer of redress by giving the Operator an acceptance document (the ***new acceptance document***) under subsection 42(2) (as it applies because of section 71H):

- (c) the statement mentioned in paragraph (b) of this subsection will be taken to be included in the new acceptance document; and
- (d) if the reassessee has received, or receives, any or all of the components of redress mentioned in paragraph (b) of this subsection—that component of redress will be taken to have been, or be, received by the reassessee in accordance with the new acceptance document.

Note: The new offer of redress does not have effect under this Part, or displace any previous offers of redress or determinations, unless it is accepted (see subsection 71H(4) and section 71K).

### **71H Accepting or declining the new offer of redress**

- (1) This section applies if:
  - (a) the reassessment decision is to set aside the current determination and substitute a new determination; and
  - (b) the Operator has given the reassessee a new offer of redress under subsection 71G(2).
- (2) Subject to section 71J, the following provisions apply in relation to the new offer of redress and the new determination in the same way as they apply to an offer of redress and a determination on an application for redress:
  - (a) section 40 (acceptance period for offers of redress);
  - (b) Division 3 of Part 2-4 (accepting or declining offers of redress), other than sections 44, 44A and 46B.
- (3) For the purposes of applying provisions under subsection (2), apply those provisions in relation to the new offer of redress, subject to the following:
  - (a) treat a reference to a provision of this Act as a reference to that provision as it applies in relation to the new offer of redress or the reassessment decision because of this Part;
  - (b) treat the reference in paragraph 45(1)(c) to “the person will not be able to make another application for redress under the scheme” as a reference to “there will be no change to the existing arrangements (including those arising out of the acceptance or declining of the offer of redress made based on the current determination)”;

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- (c) treat the reference in section 46 to each institution that was notified under section 41 of the offer as a reference to each institution that was notified under paragraph 71B(4)(a) or (c);
  - (d) treat the reference in subsection 46A(1) to each participating jurisdiction (if any) that was notified under section 41A of the offer as a reference to each participating jurisdiction (if any) that was notified under paragraph 71B(4)(b) or (d).
- (4) If the reassessee declines the new offer of redress:
- (a) the current determination, and anything done based on the current determination, is not affected; and
  - (b) the new determination has no effect from the time the new offer of redress is declined.

### **71J Accepting the new offer where previous offer was accepted**

- (1) This section applies if the reassessee had previously accepted an offer of redress in connection with the application for redress by giving the Operator an acceptance document under subsection 42(2) (the *previous acceptance document*).
- (2) Subsection 42(2) (as it applies in relation to the new offer of redress because of section 71H) applies, subject to the following:
  - (a) the acceptance document (the *new acceptance document*) must also state that the person revokes, from the time the new acceptance document is given, the releases, discharges and promises mentioned in paragraphs 42(2)(c), (d) and (e) that were stated in the previous acceptance document;
  - (b) if the rules prescribe further modifications to the content of the new acceptance document as set out in paragraphs 42(2)(a) to (j)—the new acceptance document is in accordance with those paragraphs as modified.
- (3) If:
  - (a) the previous acceptance document stated that the reassessee wished to receive any or all of the following components of redress:
    - (i) a redress payment;
    - (ii) the counselling and psychological component of redress;

- (iii) a direct personal response from a specified institution;  
and
- (b) the reassessee accepts the new offer of redress by giving the Operator the new acceptance document:
  - (i) the new acceptance document is taken to include the statement mentioned in paragraph (a); and
  - (ii) if the reassessee has received, or receives, any or all of the components of redress mentioned in paragraph (a)—that component of redress will be taken to have been, or be, received by the reassessee in accordance with the new acceptance document.
- (4) If the reassessee accepts the new offer of redress by giving the Operator the new acceptance document, the following have effect from the time the new acceptance document is given, by force of this subsection:
  - (a) the release and discharge mentioned in paragraph 43(a), as it relates to the previous acceptance document, is taken not to have been made;
  - (b) paragraphs 43(b), (c) and (d), as they relate to the previous acceptance document, cease to have effect;
  - (c) any direct personal response provided to the reassessee in accordance with the previous acceptance document is taken to be a document that is not admissible in evidence in civil proceedings in a court or tribunal under subsection 37(1);
  - (d) any redress payment or counselling and psychological services payment previously made to or in relation to the reassessee is taken to be a part payment of the redress payment or counselling and psychological services payment required to be paid under section 48 or 51 in accordance with the new acceptance document.

### **71K Effect of acceptance of new offer of redress**

If the reassessee accepts the new offer of redress under section 42 (as it applies in relation to the new offer of redress because of section 71H) by giving the Operator an acceptance document, the following have effect from the time the acceptance document is given, for the purposes of this Act:

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- (a) the new determination set out in the reassessment decision is taken to be the determination made by the Operator under section 29;
  - (b) the new offer of redress is taken to be the offer of redress made to the reassessee under section 39;
  - (c) the reassessee's acceptance of the new offer of redress is taken to be the reassessee's acceptance of the offer of redress under section 42;
  - (d) the acceptance document given by the reassessee under subsection 42(2) (as it applies in relation to the new offer of redress because of section 71H) is taken to be the reassessee's acceptance document under section 42.

### **71L Notice to institutions and participating jurisdictions that new offer is accepted**

- (1) This section applies if the reassessee accepts the new offer of redress under section 42 (as it applies in relation to the new offer of redress because of section 71H).
- (2) The Operator must give each institution that was notified under paragraph 71B(4)(a) or (c) a written notice (the **reassessment notice**) that:
  - (a) states the matters set out in paragraphs 35(2)(b) to (f); and
  - (b) if the institution was previously notified under this section or section 35 in relation to the reassessee—states:
    - (i) the amounts mentioned in subparagraphs 35(2)(b)(ii) to (v) of the most recent previous notification and the amounts paid by the institution in relation to that notification; and
    - (ii) the difference in the amounts mentioned in subparagraphs 35(2)(b)(ii) to (v) between the reassessment notice and the most recent previous notification; and
    - (iii) the amount of the institution's liability, or the amount that is to be credited to the institution, in relation to the reassessee (worked out in accordance with Division 7); and

- (c) states the components of redress that the reassessee wishes to receive (including whether the reassessee wishes to receive a direct personal response from the institution); and
- (d) is accompanied by a copy of the reassessee's acceptance document; and
- (e) complies with any requirements prescribed by the rules.

Note: In relation to paragraph (c), see subsection 71J(3).

- (3) The Operator must give each participating jurisdiction (if any) that was notified under paragraph 71B(4)(b) or (d) a written notice (the **reassessment notice**) that:

- (a) states the matters set out in paragraphs 35A(2)(b) to (k); and
- (b) if the participating jurisdiction has previously been notified under this section or section 35A in relation to the reassessee—states:
  - (i) the amounts mentioned in paragraphs 35A(2)(c) to (i) of the most recent previous notification and the amounts paid by the jurisdiction in relation to that notification; and
  - (ii) the difference in the amounts mentioned in paragraphs 35A(2)(c) to (i) as between the reassessment notice and the most recent previous notification; and
  - (iii) the amount of the jurisdiction's liability, or the amount that is to be credited to the jurisdiction, in relation to the reassessee (worked out in accordance with Division 7); and
- (c) complies with any requirements prescribed by the rules.

- (4) If:

- (a) the new offer of redress specified an institution under subparagraph 39(ia)(i), and a funder of last resort for the institution under subparagraph 39(ia)(ii); and
- (b) the institution is a partly-participating institution;

the Operator must give the institution a written notice that:

- (c) states the matters set out in paragraphs 46B(2)(a) and (b); and
  - (d) states whether the reassessee wishes to receive a direct personal response from the institution; and
  - (e) complies with any requirements prescribed by the rules.
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Note: In relation to paragraph (d), see subsection 71J(3).

- (5) However, the Operator does not need to give a notice under subsection (2), (3) or (4) in the circumstances (if any) and to the extent (if any) prescribed by the rules.

## **Division 4—Death of reassessee before or during reassessment**

### **71M Reassessees dies before new offer of redress is accepted, declined or withdrawn**

- (1) This section applies if:
- (a) a person (the *reassessees*) agrees to have the Operator reassess a current determination under section 71B; and
  - (b) the Operator makes a reassessment decision under section 71D that sets aside the current determination and substitutes a new determination; and
  - (c) the Operator gives the reassessee a new offer of redress under section 71G; and
  - (d) the reassessee dies before the offer is accepted, declined or withdrawn.
- (2) The offer is taken to be withdrawn immediately after the reassessee dies.
- (3) If, before the reassessee died:
- (a) the reassessee had made an application under section 71T for review of the reassessment decision; and
  - (b) the review had not been completed;
- then:
- (c) the application for review continues as if the reassessee had not died; and
  - (d) subsection (4) of this section applies after the review has been completed.
- (4) If the amount of the redress payment determined in the reassessment decision is more than the amount of the redress payment determined in the current determination:

- (a) the amount of the difference is payable in accordance with section 71Q; and
  - (b) for the purposes of this Act, the new determination set out in the reassessment decision is taken to be the determination made by the Operator under section 29.
- (5) The rules may prescribe matters relating to the giving of notices to a person, a participating institution, a partly-participating institution or a funder of last resort in relation to the operation of this section.

**71N Reasseee dies before reassessment decision is made**

- (1) This section applies if:
- (a) a person (the *reassesee*) agrees to have the Operator reassess a current determination under section 71B; and
  - (b) the reasseee dies before the Operator makes a reassessment decision under section 71D.
- (2) The Operator must continue to reassess the current determination and make a reassessment decision as if the reasseee had not died.
- (3) If:
- (a) the reassessment decision sets aside the current determination and substitutes a new determination; and
  - (b) the amount of the redress payment determined in the reassessment decision is more than the amount of the redress payment determined in the current determination;
- then:
- (c) the amount of the difference is payable in accordance with section 71Q; and
  - (d) for the purposes of this Act, the new determination set out in the reassessment decision is taken to be the determination made by the Operator under section 29.
- (4) The rules may prescribe matters relating to the giving of notices to a person, a participating institution, a partly-participating institution or a funder of last resort in relation to the operation of this section.

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**71P Reassessees die before identification for reassessment**

- (1) This section applies if:
  - (a) the Operator had made a determination (the *current determination*) on a person's application for redress under subsection 29(2); and
  - (b) the person had accepted an offer of redress in connection with the application for redress under section 42; and
  - (c) the Operator subsequently identified the current determination under section 71R; and
  - (d) the person had died before the Operator identified the current determination.
- (2) The Operator must reassess the current determination under this Part and make a reassessment decision as if:
  - (a) the person (the *reassessees*) had not died; and
  - (b) the reassessees had agreed, in writing, to have the Operator reassess the current determination under this Part.
- (3) If:
  - (a) the reassessment decision sets aside the current determination and substitutes a new determination; and
  - (b) the amount of the redress payment determined in the reassessment decision is more than the amount of the redress payment determined in the current determination;then:
  - (c) the amount of the difference is payable in accordance with section 71Q; and
  - (d) for the purposes of this Act, the new determination set out in the reassessment decision is taken to be the determination made by the Operator under section 29.
- (4) The rules may prescribe matters relating to the giving of notices to a person, a participating institution, a partly-participating institution or a funder of last resort in relation to the operation of this section.

### **71Q Entitlement to redress payment under this Division**

- (1) This section applies if, under paragraph 71M(4)(a), 71N(3)(c) or 71P(3)(c), an amount of redress payment for the reassessee is payable in accordance with this section.
- (2) The Operator must:
  - (a) determine who should be paid the redress payment; and
  - (b) pay the amount to that person or those persons as soon as practicable.
- (3) In determining who should be paid the redress payment, the Operator may consider the people who are entitled to the property of the reassessee under:
  - (a) the reassessee's will; and
  - (b) the law relating to the disposition of the property of deceased persons.
- (4) The Operator may pay the redress payment without requiring:
  - (a) production of probate of the will of the reassessee; or
  - (b) letters of administration of the estate of the reassessee.
- (5) The rules may prescribe matters relating to the payment of redress payments under this section.

## **Division 5—Identifying determinations and notifying applicants**

### **71R Identification of determinations for reassessment**

- (1) As soon as practicable after the commencement of this section, the Operator must identify each determination made by the Operator under section 29 on an application for redress in relation to which all of the following apply:
  - (a) the Operator has reasonable grounds to believe that an institution identified in the application, or in the course of dealing with the application, may be connected with abuse of the person who made the application;

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- (b) at the time the determination was made, the institution was not a participating institution or listed for a participating jurisdiction under section 164, 164A, 164B or 164C;
  - (c) at a later time, the institution has become a participating institution or listed for a participating jurisdiction under section 164, 164A, 164B or 164C.
- (2) If either of the following events occurs:
- (a) an institution becomes a participating institution;
  - (b) an institution is listed for a participating jurisdiction under section 164, 164A, 164B or 164C;
- the Operator must, as soon as practicable after the event occurs, identify each determination made by the Operator under section 29 on an application for redress in relation to which the Operator has reasonable grounds to believe that an institution identified in the application, or in the course of dealing with the application, may be connected with abuse of the person who made the application.

### **71S Notification for reassessment**

- (1) If the Operator identifies a determination on an application for redress under section 71R, the Operator must comply with subsection (2) or (3) of this section (as applicable) as soon as practicable after identifying the determination.

#### *Determination to approve application*

- (2) If the determination was to approve the application and the person who made the application had been given an offer of redress and the person had accepted or declined the offer, the Operator must:
- (a) make reasonable efforts to invite the person to agree under subsection 71B(2) to have the Operator reassess the determination; or
  - (b) if the person is deceased—comply with subsection 71P(2) and, if applicable, subsection 71P(3).

#### *Determination to not approve application*

- (3) If:
- (a) the determination was to not approve the application; and

- (b) the Operator is satisfied that the person who made the application would have been eligible for redress under the scheme if, at the time the determination was made, an institution identified in the application, or in the course of dealing with the application, had been a participating institution or listed for a participating jurisdiction under section 164, 164A, 164B or 164C;
- the Operator must:
- (c) make reasonable efforts to invite the person to agree, by written notice given to the Operator, to the Operator revoking the determination; or
- (d) if the person is deceased—revoke the determination.
- (4) If the person agrees under paragraph (3)(c) to the Operator revoking the determination, the Operator must revoke the determination.

- Note: If the Operator revokes the determination, subsections 29(6) and (7) apply, with the following effects:
- (a) the determination is taken never to have been made (paragraph 29(6)(a));
- (b) the Operator may make further requests for information relating to the application (paragraph 29(6)(d));
- (c) the Operator must give written notice of the revocation to various persons (subsection 29(7)).

## Division 6—Review of reassessment decisions

### 71T Review of reassessment decisions

- (1) If:
- (a) a person (the *reassesse*) has agreed under subsection 71B(2) to have the Operator reassess a current determination; and
- (b) the Operator has reassessed the current determination and made a reassessment decision under section 71D;
- the reassessee may apply to the Operator for review of the reassessment decision.
- (2) The application for review must:
- (a) be made within the review period mentioned in section 34 (as it applies in relation to the reassessment decision because of section 71E); and

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(b) be in the approved form.

### **71U The review**

- (1) If the reassessee has applied to the Operator for review of the reassessment decision, the following provisions apply in relation to the application and the reassessment decision in the same way as they apply in relation to an application for review made under section 73 and a determination on an application for redress under section 29:
- (a) section 74 (withdrawal of application for review);
  - (b) section 75 (the review), other than paragraphs (3)(b) and (c) and subparagraph (4)(a)(i) of that section;
  - (c) section 76 (date of effect of review determination);
  - (d) section 77 (notice of review determination to applicant);
  - (e) section 78 (interaction between review and offer of redress).
- (2) For the purposes of applying provisions under subsection (1), apply those provisions in relation to the reassessment decision, subject to the following:
- (a) treat the reassessee as the person mentioned in subsection 74(1) and the applicant mentioned in section 77;
  - (b) treat a reference to a provision of this Act as a reference to that provision as it applies in relation to the application or the reassessment decision because of this Part;
  - (c) treat a reference to the original determination as a reference to the reassessment decision;
  - (d) treat the reference in subparagraph 75(2)(b)(iii) to a new determination as a reference to a new decision;
  - (e) treat the reference in subsection 76(3) to the determination made by the Operator under section 29 as a reference to the reassessment decision made under section 71D;
  - (f) treat a reference in section 78 to an offer of redress under or in accordance with section 39 as a reference to a new offer of redress under or in accordance with section 71G;
  - (g) treat the reference in paragraph 78(3)(b) to “the determination as varied or substituted approves the application for redress” as a reference to “the review

determination varies or sets aside the reassessment decision and substitutes a new decision”.

## **Division 7—Financial matters**

### **71V Application of this Division**

This Division applies if either or both of the following occur in a quarter (the *present quarter*):

- (a) a person who had previously accepted an offer of redress accepts a new offer of redress given under section 71G based on a reassessment decision made under section 71D that sets aside a determination (a *current determination*) and substitutes a new determination;
- (b) a payment is made in relation to a deceased person under section 71Q based on a reassessment decision made under section 71D that sets aside a determination (also a *current determination*) and substitutes a new determination.

### **71W Reassessment decision does not change funding contribution for a quarter before the present quarter, except in certain circumstances**

Amounts of funding contribution (including the redress element and the scheme administration element) for a participating institution or funder of last resort worked out for a quarter before the present quarter are not to change because of the reassessment decision, except as provided by this Division or as prescribed by the rules.

### **71X Determining reassessment deficit or reassessment surplus**

- (1) This section applies in relation to:
  - (a) a person in relation to whom paragraph 71V(a) or (b) applies in the present quarter; and
  - (b) a participating institution or funder of last resort determined in the current determination or the new determination mentioned in paragraph 71V(a) or (b) in relation to the person.

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- (2) The Operator must determine, in respect of the amounts of the institution's or funder of last resort's:
- (a) share of the costs of the redress payment to the person in all quarters up to the present quarter; and
  - (b) share of the costs of the counselling and psychological component of redress for the person in all quarters up to the present quarter; and
  - (c) scheme administration element for all quarters up to the present quarter, to the extent it is attributable to the person;
- the difference for the institution or funder of last resort between such amounts worked out:
- (d) based on the current determination in relation to the person, as in effect immediately before the start of the present quarter; and
  - (e) based on the new determination in relation to the person, as in effect at the end of the present quarter.
- (3) If an amount worked out under paragraph (2)(e) is more than a corresponding amount worked out under paragraph (2)(d), the institution or funder of last resort has an amount of **reassessment deficit** in relation to the person for the present quarter that is equal to the difference.
- (4) If an amount worked out under paragraph (2)(e) is less than a corresponding amount worked out paragraph (2)(d), the institution or funder of last resort has an amount of **reassessment surplus** in relation to the person for the present quarter that is equal to the difference.

**71Y Liability for reassessment deficits—reassessment contribution**

- (1) If a participating institution or funder of last resort has an amount of reassessment deficit in relation to a person for the present quarter, the participating institution or funder of last resort is liable to pay reassessment contribution for the present quarter.
- (2) **Reassessment contribution** for a quarter for a participating institution or funder of last resort is the total of the institution's or funder of last resort's amounts of reassessment deficit in relation to all persons for the quarter.

- (3) Sections 153 to 158 (which deal with matters relating to funding contribution) apply in relation to the institution's or funder of last resort's reassessment contribution for a quarter in the same way as those sections apply in relation to a funding contribution for an institution or funder of last resort for a quarter.

**71Z Crediting reassessment surplus to institutions and funders of last resort**

- (1) If a participating institution or funder of last resort has an amount of reassessment surplus in relation to a person for the present quarter, the Operator may set off all or part of the reassessment surplus for the present quarter against all or part of any of the following amounts:
- (a) reassessment contribution for the institution or funder of last resort for the present quarter or a quarter before the present quarter;
  - (b) reassessment contribution for the institution or funder of last resort for a quarter after the present quarter for which the Operator reasonably believes the institution or funder of last resort will be liable;
  - (c) funding contribution for the institution or funder of last resort for the present quarter or a quarter before the present quarter;
  - (d) funding contribution for the institution or funder of last resort for a quarter after the present quarter for which the Operator reasonably believes the institution or funder of last resort will be liable.
- (2) For the purposes of this Act, if all or part of the reassessment surplus for the institution or funder of last resort is set off against an amount under subsection (1), the amount set off is taken to have been paid by the institution or funder of last resort.
- (3) The Commonwealth must repay so much of the reassessment surplus as is not set off under subsection (1) to:
- (a) if paragraph (b) does not apply—the institution or funder of last resort; or
  - (b) if rules made for the purposes of this paragraph prescribe a different person in relation to the repayment—the person prescribed by the rules.

Note: For the appropriation for the refund, see section 77 of the *Public Governance, Performance and Accountability Act 2013*.

- (4) However, the Operator may, on behalf of the Commonwealth reduce the amount that may be set off under subsection (1), or the amount of any repayment under subsection (3), by the amount (if any) of payment waived in respect of the institution or funder of last resort under section 156 (including as it applies in relation to an amount of reassessment contribution because of subsection 71Y(3)).

### **8 After paragraph 84(2)(b)**

Insert:

- (ba) accept a new offer of redress under section 42 (as it applies in relation to the new offer of redress because of section 71H);

### **9 After paragraph 84(2)(c)**

Insert:

- (ca) decline a new offer of redress under section 45 (as it applies in relation to the new offer of redress because of section 71H);

### **10 Paragraph 85(2)(c)**

After “section 42”, insert “(including as it applies in relation to a new offer of redress because of section 71H)”.

### **11 Paragraph 85(2)(c)**

After “section 45”, insert “(including as it applies in relation to a new offer of redress because of section 71H)”.

### **12 At the end of section 184**

Add:

Note: A reference in this section to section 29 or 75 includes a reference to that section as it applies in relation to a reassessment decision because of sections 71D and 71U.

### **13 At the end of subsection 185(1)**

Add:

## Schedule 2 Reassessment of determinations

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Note: A reference in this section to section 29 or 75 includes a reference to that section as it applies in relation to a reassessment decision because of sections 71D and 71U.

### **14 At the end of Part 8-5**

Add:

### **211 Application of amendments made by Schedule 2 to the amending Act**

The amendments made by Schedule 2 to the amending Act apply in relation to determinations made under section 29 before, on or after the commencement of that Schedule.

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*[Minister's second reading speech made in—  
House of Representatives on 15 November 2023  
Senate on 8 February 2024]*

(139/23)

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