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SCHEDULE

ACTS REFERRED TO

Children Act, 1908	1908, c. 67
Civil Liability Act, 1961	1961, No. 41
Commission to Inquire into Child Abuse Act, 2000	2000, No. 7
Data Protection Act, 1988	1988, No. 25
Freedom of Information Act, 1997	1997, No. 13
Income Tax Acts	
Local Government Act, 2001	2001, No. 37
Medical Practitioners Act, 1978	1978, No. 4
National Archives Act, 1986	1986, No. 11
Protections for Persons Reporting Child Abuse Act, 1998	1998, No. 49
Statutes of Limitations	
Succession Act, 1965	1965, No. 27
Taxes Consolidation Act, 1997	1997, No. 30



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RESIDENTIAL INSTITUTIONS REDRESS ACT, 2002

AN ACT TO PROVIDE FOR THE MAKING OF FINANCIAL AWARDS TO ASSIST IN THE RECOVERY OF CERTAIN PERSONS WHO AS CHILDREN WERE RESIDENT IN CERTAIN INSTITUTIONS IN THE STATE AND WHO HAVE OR HAVE HAD INJURIES THAT ARE CONSISTENT WITH ABUSE RECEIVED WHILE SO RESIDENT AND FOR THAT PURPOSE TO ESTABLISH THE RESIDENTIAL INSTITUTIONS REDRESS BOARD TO MAKE SUCH AWARDS AND TO PROVIDE FOR THE REVIEW OF SUCH AWARDS BY THE RESIDENTIAL INSTITUTIONS REVIEW COMMITTEE AND TO PROVIDE FOR RELATED MATTERS. [10th April, 2002]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, unless the context otherwise requires— Interpretation.

“abuse”, in relation to a child, means—

- (a) the wilful, reckless or negligent infliction of physical injury on, or failure to prevent such injury to, the child,
- (b) the use of the child by a person for sexual arousal or sexual gratification of that person or another person,
- (c) failure to care for the child which results in serious impairment of the physical or mental health or development of the child or serious adverse effects on his or her behaviour or welfare, or
- (d) any other act or omission towards the child which results in serious impairment of the physical or mental health or development of the child or serious adverse effects on his or her behaviour or welfare,

and cognate words shall be construed accordingly;

“Act of 2000” means the Commission to Inquire into Child Abuse Act, 2000;

“applicant” shall be construed in accordance with *section 7(1)*;

“application” means an application for an award;

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“award” means a financial award made by the Board;

“Board” means the Board established under *section 3*;

“Chairperson” shall be construed in accordance with *section 6(1)*;

“child” means a person who has not attained the age of 18 years and cognate words shall be construed accordingly;

“establishment day” means the day appointed under *section 2* to be the establishment day;

“functions” includes powers and duties;

“injury” includes physical or psychological injury and injury that has occurred in the past or currently exists and cognate words shall be construed accordingly;

“institution” means an institution that is specified in the *Schedule*;

“medical practitioner” means a person registered in the General Register of Medical Practitioners established under *section 26* of the Medical Practitioners Act, 1978;

“Minister” means the Minister for Education and Science;

“prescribed” means prescribed by regulations made by the Minister;

“public body” means a Department of State, a Minister of the Government, a court, a health board and a local authority for the purposes of the Local Government Act, 2001;

“relevant person” means—

(a) a person who is referred to in an application as having carried out the acts complained of in the application, and

(b) in the case of an institution that is referred to in an application as being the institution in which the acts complained of in the application were carried out, the person who is concerned with the systems of management, administration, operation, supervision, inspection and regulation of such institution as the institution concerned may determine and specify in writing to the Board;

“Review Committee” has the meaning assigned to it by *section 14*;

“Review Committee Chairperson” has the meaning assigned to it by *section 14*;

“spouse”, in relation to a person, includes a person with whom the person is or was at a time cohabiting.

(2) References in this Act to abuse of children in institutions or which occurred in institutions include references to any case in which abuse of a child took place, not in an institution, but while the child was residing or being cared for in an institution and the abuse was committed or aided, abetted, counselled or procured by, or otherwise contributed to by an act or omission of, a person engaged in the management, administration, operation, supervision or regulation of the institution or a person otherwise employed in or associated with the institution.

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(3) An applicant who was resident in an institution and was transferred from that institution to another place of residence which carried on the business of a laundry and who suffered abuse while resident in that laundry shall be deemed, at the time of the abuse, to have been resident in that institution. S.1

(4) References in this Act to a person who as a child was resident in an institution include references to any case where a child was resident in an institution having been sent and detained there in accordance with the provisions of the Children Act, 1908.

(5) In this Act—

(a) a reference to a section or a Schedule is a reference to a section of or Schedule to this Act, unless it is indicated that reference to some other enactment is intended,

(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended, and

(c) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactments including this Act.

2.—The Minister shall by order appoint a day to be the establishment day for the purposes of this Act. Establishment day.

3.—(1) On the establishment day there shall stand established a board to be known as the Residential Institutions Redress Board (the “Board”) to perform the functions conferred on it under this Act. Establishment of Board.

(2) The Board and its members shall be independent in the performance of their functions.

(3) When the Minister is satisfied, after consultation with the Chairperson, that the Board has completed the performance of its functions, the Minister may by order dissolve the Board and may, subject to the provisions of this Act, include in the order such incidental, ancillary or consequential provisions as the Minister considers necessary or expedient.

(4) When an order under *subsection (3)* is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

4.—(1) The Minister may, by order, provide for the insertion in the *Schedule* of any industrial school, reformatory school, orphanage, children’s home, special school which was established for the purpose of providing education services to children with a physical or intellectual disability or a hospital providing medical or psychiatric services to people with a physical or mental disability or mental illness in which children were placed and resident and in respect of which a public body had a regulatory or inspection function. Additional Institution.

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(2) Where it is proposed to make an order under *subsection (1)*, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving such draft is passed by each such House.

Functions of Board.

5.—(1) The Board shall—

- (a) make awards in accordance with this Act which are fair and reasonable having regard to the unique circumstances of each applicant,
- (b) make all reasonable efforts, through public advertisement, direct correspondence with persons who were residents of an institution and otherwise, to ensure that persons who were residents of an institution are made aware of the function, referred to in *paragraph (a)*, of the Board,
- (c) have regard to the age and health of an applicant when determining the order in which applications are heard by it, and
- (d) ensure, in so far as is practicable, that hearings are conducted as informally as is possible having regard to all the circumstances.

(2) The Board shall have all such powers as are necessary or expedient for the performance of its functions.

(3) When considering an application under this Act the Board—

- (a) shall not address any issue of fault or negligence arising out of evidence given in an application under this Act, and
- (b) shall not make a finding of fact relating to fault or negligence referred to in *paragraph (a)*.

(4) The Board may—

- (a) give directions for the purposes of exercising its functions under this Act, and
- (b) make provision for the taking of evidence on commission for the purposes of this Act.

Membership of Board.

6.—(1) The Board shall consist of a chairperson (the “Chairperson”) and such number of ordinary members as the Minister may determine.

(2) The Minister shall appoint the Chairperson and the ordinary members of the Board.

(3) In appointing the Chairperson and ordinary members of the Board, the Minister shall have regard to the desirability of ensuring a reasonable balance between the number of women and men so appointed.

(4) The term of office of a member of the Board shall be for such period as is specified by the Minister when appointing such member.

(5) (a) A member of the Board may, by letter addressed to the Minister, resign his or her membership of the Board.

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(b) A member of the Board may be removed from office by S.6 the Minister.

(6) A member of the Board (other than a member who is the holder of judicial office) shall be paid such remuneration (if any) and allowances (if any) as may be determined by the Minister, with the consent of the Minister for Finance, and members of the Board shall be paid such allowances for expenses as may be so determined.

(7) The Minister may, with the consent of the Minister for Finance, appoint such and so many persons to be members of the staff of the Board and a person so appointed shall hold office on such terms and shall receive such remuneration as the Minister for Finance determines.

7.—(1) Where a person who makes an application (an “applicant”) for an award to the Board establishes to the satisfaction of the Board— Entitlement to award.

(a) proof of his or her identity,

(b) that he or she was resident in an institution during his or her childhood, and

(c) that he or she was injured while so resident and that injury is consistent with any abuse that is alleged to have occurred while so resident,

the Board shall make an award to that person in accordance with *section 13(1)*.

(2) A person who has received an award from a court or a settlement in respect of an action arising out of any circumstances which could give rise to an application before the Board shall not make an application to, or be heard by, the Board or be entitled to receive an award under this Act in respect of those circumstances.

(3) Where a court has made a determination in an action arising out of circumstances which could give rise to an application before the Board the plaintiff in that action shall not make an application to, or be heard by, the Board and shall not be entitled to receive an award under this Act in respect of those circumstances.

(4) The making of an application to the Board does not involve the waiver of any other right of action by the applicant.

(5) An applicant shall not, when presenting an application to the Board, be required to produce to the Board any evidence of negligence on the part of a person referred to in the application, by the employer of that person or a public body.

(6) A person who makes an application under this Act and who gives false evidence to the Board or the Review Committee in such circumstances that, if the person had given the evidence before a court, the person would be guilty of perjury, the person shall be guilty of an offence and shall be liable on conviction on indictment to the penalties applying to perjury.

(7) A determination referred to in *subsection (3)*, shall not include a determination concerning the Statutes of Limitations or an interlocutory matter.

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Period for making applications.

8.—(1) An applicant shall make an application to the Board within 3 years of the establishment day.

(2) The Board may, at its discretion and where it considers there are exceptional circumstances, extend the period referred to in *subsection (1)*.

(3) The Board shall extend the period referred to in *subsection (1)* where it is satisfied that an applicant was under a legal disability by reason of unsound mind at the time when such application should otherwise have been made and the applicant concerned makes an application to the Board within 3 years of the cessation of that disability.

Deceased applicants.

9.—(1) Where a person who would have qualified as an applicant and who did not receive an award or settlement referred to in *section 7(2)* dies after 11 May 1999 and prior to making an application under this Act the children or spouse of that person may, subject to *subsection (3)*, make an application on behalf of that deceased person.

(2) Where an applicant dies after making an application but before a determination is made by the Board the children or spouse of that deceased applicant may proceed with the application.

(3) One application in respect of a person referred to in *subsection (1)* shall be made to the Board.

(4) Where an award is made in respect of an application pursuant to this section, the Board shall direct that such award be paid to the personal representatives of the deceased person referred to in *subsection (1)* or the applicant referred to in *subsection (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.

(5) In this section “personal representative” has the meaning assigned to it by the Succession Act, 1965.

Hearing of application.

10.—(1) An application may be heard before a sitting of the Board consisting of a chairperson (who may be a person other than the Chairperson) and at least one other member of the Board.

(2) The Board shall conduct its hearings otherwise than in public.

(3) An application shall be made to the Board in the manner determined by the Board.

(4) When making an application the applicant shall provide the Board with evidence of—

(a) his or her identity,

(b) residence at the institution concerned,

(c) the abuse received while so resident, and

(d) the injury received as a consequence of such abuse.

(5) The applicant, as he or she determines, shall provide the evidence referred to in *subsection (4)* either—

- (a) orally, or S.10
(b) by a written statement as prescribed.

(6) For the purposes of establishing the matters specified in *paragraph (a) to (d) of subsection (4)*, the Board may on its own behalf or at the request of an applicant, request, by notice in writing, any person to produce to the Board or to the applicant any document in his or her possession, custody or control which relates to such matters.

(7) A person to whom a notice under *subsection (6)* is addressed shall provide the Board with the document specified in the notice if it is in the possession, custody or control of that person.

(8) The Board may hear submissions on behalf of the applicant and any other evidence it considers appropriate and where evidence is given in accordance with *subsection (5)(b)* the Board may request the applicant concerned to provide oral evidence in respect of the matters referred to at *paragraphs (c) and (d) of subsection (4)*.

(9) The Board shall make a preliminary decision as to whether the applicant is entitled to an award having regard to the matters specified in *paragraphs (a) to (d) of subsection (4)* and, where appropriate, any matter arising out of *section 11*.

(10) The Board may make an interim award where—

- (a) it makes a preliminary decision in accordance with *subsection (9)* that the applicant is entitled to an award,
(b) is satisfied that it is probable, having regard to all the circumstances, that an award that is equal to or greater than the amount of the interim award will be made in respect of the applicant, and
(c) it is of the opinion that having regard to the age or infirmity of an applicant the making of an interim award is appropriate in the circumstances,

and such interim award shall not exceed €10,000 and it shall deduct the amount of such interim award from the award made in accordance with *section 13*.

(11) The Board shall, where it makes a preliminary decision that the applicant is entitled to an award, request the advisers appointed under *section 11(1)* to prepare a report on the injuries, referred to in *subsection (4)(d)*, received by the applicant and, where the Board considers it appropriate, may require that such report shall have regard to any matter arising out of the oral evidence given by the applicant.

(12) An adviser referred to in *subsection (11)* shall prepare and submit such report to the Board and when preparing such report that adviser—

- (a) shall have regard to the medical reports submitted by the applicant,
(b) shall have regard to the evidence provided on behalf of the applicant by his or her medical advisers,
(c) shall have regard to the evidence given under *subsection (4)*,

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(d) may, where that adviser considers it appropriate, carry out an assessment of the applicant and such assessment may include conducting an interview with the applicant and his or her medical advisers, and

(e) shall have regard to the matters specified in *section 7(1)(c)* and any requirement of the Board under *subsection (11)*.

(13) An applicant, other than an applicant referred to in *section 9*, shall appear in person and may be represented by counsel or solicitor before the Board.

(14) An applicant or a relevant person and any person giving evidence on behalf of an applicant or a relevant person may be asked questions by the Board or by counsel for the Board or by both.

(15) Where an application is made on behalf of a deceased person in accordance with *section 9*, the Board shall rely on—

(a) the oral evidence of the children or spouse in respect of the matters specified in *paragraphs (a) to (c) of subsection (4)*, and

(b) medical reports submitted on behalf of the deceased person.

Supplemental provisions to *section 10*.

11.—(1) The Board shall appoint persons with appropriate medical and related expertise as advisers to advise generally in respect of injuries referred to in *section 7(1)(c)* and, without prejudice to the generality of the foregoing, such advisers shall prepare a report on injuries of an applicant for the purpose of making an award.

(2) The Board may appoint its own counsel who may call such expert witnesses to give evidence as the Board may require.

(3) Subject to this Act, the Board shall determine its own procedures and, in so doing, shall, in as far as is practicable, adopt procedures which are informal.

(4) The Board may sit in divisions of itself to exercise its functions.

(5) The Board may act notwithstanding one or more vacancies among its members.

(6) The Board may, in addition to hearing counsel for an applicant, in respect of any matter before it, seek the assistance of counsel appointed by the Board in relation to any matter which it regards as necessary.

(7) The Board shall determine the manner in which an applicant shall provide evidence of his or her identity.

(8) The Board shall take such reasonable steps as are necessary, and in accordance with regulations made under this section, to inform a relevant person of an application under this Act in which the relevant person is referred to and where the Board so informs that relevant person—

(a) the Board shall invite that relevant person to provide it with any evidence in writing concerning such application as the relevant person considers appropriate,

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- (b) the Board may, on an application by a relevant person, S.11 allow the relevant person to give oral evidence to the Board in respect of the application,
- (c) the relevant person may, in person or through a legal or other representative, and, with the consent of the Board, cross-examine the applicant and any person giving evidence on behalf of the applicant for the purpose of—
- (i) correcting any mistake of fact or misstatement relating to or affecting the relevant person made in the application,
 - (ii) defending the relevant person in relation to any allegation or defamatory or untrue statement, made in the application, or
 - (iii) protecting and vindicating the personal and other rights of the relevant person,
- and
- (d) an applicant may, in person or through a legal or other representative, and, with the consent of the Board, cross-examine the relevant person and any person giving evidence on behalf of the relevant person,

and the Board shall consent under this subsection if it considers that, in the interests of justice, it is necessary or expedient to do so for any of the purposes so specified.

(9) A relevant person may request the Review Committee to review a refusal of the Board, under *subsection (8)*, and the Review Committee may either confirm the decision of the Board or direct the Board to allow the relevant person to give oral evidence in the application concerned.

(10) Where there is a conflict between the evidence given by the applicant and the evidence given by a relevant person which cannot be resolved to the satisfaction of the Board, the Board shall request the advisers appointed under *subsection (1)* to prepare a report on the injuries referred to in *section 10(4)(d)* and *section 10(12)* shall apply to the making of such report.

(11) The Board, having considered a report made pursuant to *subsection (10)*, shall make a preliminary decision under *section 10(9)* and the report prepared pursuant to *subsection (10)* shall be relied on for the purposes of *section 10(12)*.

(12) The making of an award to an applicant, notwithstanding a conflict between the evidence given by the applicant and a relevant person, shall not constitute a finding of fact relating to fault or negligence on the part of the relevant person.

(13) The Minister may make regulations concerning the giving of evidence and the service of documents under this Act.

12.—The Minister may make arrangements to provide for the settlement of an application to the Board. Settlement of applications.

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Award of Board.

13.—(1) The Board shall, when determining an award, have regard to—

- (a) the evidence adduced at a hearing, if any,
- (b) the regulations made by the Minister under *section 17*, and
- (c) the report referred to in *section 10(12)* or, where appropriate, in *section 11(11)*,

and, where it considers it appropriate, it may hear the oral evidence of the applicant and his or her medical or other advisers in respect of the report referred to in *paragraph (c)*.

(2) Where the Board makes an award it shall include an award for—

- (a) any expenses incurred in making an application under this Act, and
- (b) medical expenses incurred by the applicant in accordance with regulations made under *section 17* in respect of treatment for the injury concerned.

(3) The Board shall, as soon as is practicable, notify the applicant in writing of the award to him or her.

(4) An applicant may—

- (a) accept or reject the award made by the Board to him or her, or
- (b) submit the award to the Review Committee for a review of the amount of the award made by the Board,

within one month, or such greater period as may be prescribed, from the date of receiving notice of the award.

(5) If an applicant does not accept, reject or submit for review the award made to him or her within the period referred to in *subsection (4)* he or she shall be deemed to have rejected the award.

(6) Where an applicant accepts an award (including an award reviewed under *section 15*) the applicant shall agree in writing to waive any right of action which he or she may otherwise have had against a public body or a person who has made a contribution under *section 23(5)* and to discontinue any other proceedings instituted by the applicant, against such public body or such person, that arise out of the circumstances of the application before the Board.

(7) An award shall not be paid to an applicant unless the applicant complies with *subsection (6)*.

(8) Where—

- (a) an applicant does not wish to receive the entire amount of an award in a single payment, the Board, having heard the applicant or a submission on behalf of the applicant, may in its absolute discretion, direct that the award shall be paid to the applicant in instalments, or

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- (b) the Board, having heard submissions by or on behalf of an applicant and from such other person as the Board considers appropriate, is of the opinion that the applicant is incapable of managing any moneys received under an award it shall direct that the award shall be paid to the applicant in instalments or in any other manner that is appropriate having regard to the circumstances of the applicant, S.13

and the applicant may submit a direction under *paragraph (b)* to the Review Committee for a review of that direction.

(9) Where the Board decides that any or all of the matters specified in *section 7(1)* have not been established to its satisfaction it shall notify the applicant as soon as practicable of the decision and an applicant may submit that decision to the Review Committee for a review of it within one month, or such greater period as may be prescribed, from the date of receiving notice of the decision not to make the award.

(10) Where an applicant does not accept an award within the time and in the manner provided for in this section and proceeds with any right of action that he or she may have arising out of the same, or substantially the same, acts complained of 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 Board by that applicant, and
- (b) the date on which the applicant—
- (i) abandoned his or her application,
 - (ii) was adjudged not entitled to an award under this Act,
 - (iii) rejected an award in accordance with *subsection (4)(a)* or *subsection (5)*, or
 - (iv) rejected a decision of the Review Committee in accordance with *section 15(7)* or *section 15(8)*,

whichever of such dates is the later, in bar of any right of recovery under such proceedings.

(11) An award made under this Act shall not be construed as a finding of fact that a person who is referred to in an application carried out the acts complained of in the application.

(12) An applicant who receives an award under this Act shall not institute civil proceedings arising out of the same, or substantially the same, acts complained of in an application in respect of which a public body or a person who has made a contribution under *section 23(5)* is a party if such proceedings concern the institution referred to in *section 28(4)(b)* and the period of residence at that institution referred to in *section 28(4)(c)*.

(13) The Minister may submit an award made by the Board to the Review Committee within one month from the date of making the award.

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Establishment of
Review Committee.

14.—(1) On the establishment day there shall stand established a committee which shall be known as the Residential Institutions Redress Review Committee (the “Review Committee”) to perform the functions conferred on it under this Act.

(2) The Review Committee shall consist of a chairperson (the “Review Committee Chairperson”) and such number of ordinary members as may be determined by the Minister.

(3) When the Minister is satisfied, after consultation with the Review Committee Chairperson, that the Review Committee has completed the performance of its functions, the Minister may by order dissolve the Review Committee and may, subject to the provisions of this Act, include in the order such incidental, ancillary or consequential provisions as the Minister considers necessary or expedient.

(4) When an order under *subsection (3)* is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(5) The Review Committee and its members shall be independent in the exercise of their functions.

(6) The Minister shall appoint the Review Committee Chairperson and the ordinary members of the Review Committee.

(7) The term of office of a member of the Review Committee shall be for such period as is specified by the Minister when appointing that member.

(8) A member of the Review Committee may, by letter addressed to the Minister, resign his or her membership.

(9) A member of the Review Committee may be removed from membership by the Minister.

(10) A member of the Review Committee (other than a member who is the holder of judicial office) shall be paid such remuneration (if any) and allowances (if any) as may be determined by the Minister with the consent of the Minister for Finance and members of the Review Committee shall be paid such allowances for expenses as may be so determined.

(11) The Minister may, with the consent of the Minister for Finance, appoint such and so many persons to be members of the staff of the Review Committee and a person so appointed shall hold office on such terms and shall receive such remuneration as the Minister for Finance determines.

(12) The Review Committee shall determine its own procedures and in so doing, shall, in as far as is practicable, adopt procedures which are informal.

(13) The Review Committee may sit in divisions of itself to hear applications before it.

Decision of Review
Committee.

15.—(1) The Review Committee shall review—

(a) the amount of an award that is submitted in accordance with *section 13(4)(b)* or *13(13)*,

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(7) Where a decision under *subsection (3)* has been notified to the applicant, he or she shall have a period of one month or such greater period as may be prescribed from the date of receiving the notification during which he or she may decide in writing either to accept or reject the decision of the Review Committee and where the applicant so decides he or she shall notify the Board of the decision.

(8) If the applicant neither accepts nor rejects the decision of the Review Committee within the period specified in *subsection (7)*, the applicant shall be deemed to have rejected the decision of the Review Committee.

(9) The applicant, other than an applicant referred to in *section 9*, shall appear in person and may be represented by counsel or solicitor before the Review Committee.

(10) An applicant and any person giving evidence on behalf of an applicant may be asked questions by the Review Committee.

(11) Where an application for a review is made on behalf of a deceased person in accordance with *section 9*, the Review Committee shall rely on—

(a) the oral evidence of the children or spouse in respect of the matters specified in *paragraphs (a) to (c) of subsection (4)*, and

(b) medical reports submitted on behalf of the deceased person.

(12) The Review Committee may uphold a direction under *section 13(8)(b)* or direct how such moneys shall be paid as it considers appropriate having regard to the circumstances of the applicant.

Assessment of
Injuries Report.

16.—Where the Minister has appointed persons with appropriate medical and legal expertise to be members of a committee, either before or after the passing of this Act, for the purposes of preparing a report—

(a) on the amount of awards for categories of abuse, including severity of abuse and categories of injuries, and

(b) on advice and recommendations generally in respect of such awards, including advice on the range of the amount to be paid in an award having regard to the category of the abuse and injury,

the Minister shall cause the report to be published as soon as practicable.

Assessment of
injuries regulations.

17.—(1) The Minister shall make regulations specifying the amount to be paid for abuse, injuries and medical expenses and shall, when making such regulations, have regard to the report referred to in *section 16*.

(2) Without prejudice to the generality of the foregoing, the Minister shall specify in the regulations—

(a) categories of abuse, including categories of severity of abuse,

(b) categories of injuries, or

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- (c) amounts to be paid in an award for such abuse and injuries, S.17
and where appropriate, the range of such amounts having
regard to the severity of the abuse and injuries.

18.—(1) Utterances made by a member of the Board or the Review Committee, a member of the staff of the Board or Review Committee or an adviser to the Board or Review Committee, for the purposes of the performance of the functions of the Board or the Review Committee, shall be absolutely privileged and such utterances and documents prepared by the Board or the Review Committee or any of the other persons aforesaid for the purposes of such performance and reports of the Board or the Review Committee, shall be absolutely privileged wherever and however published. Privilege.

(2) A person whose evidence has been, is being or is to be given before the Board or the Review Committee, or who produces or sends a document to the Board or the Review Committee or who makes a submission to the Board or the Review Committee shall be entitled to the same privileges and immunities in respect of those matters as a witness before the High Court in respect of evidence.

19.—A statement or admission made by a person—

Admissibility of
certain evidence.

- (a) before the Board or the Review Committee, or
- (b) in a document prepared for the Board or the Review Committee for the purposes of assessing an application that is—
- (i) sent by a person to the Board or the Review Committee,
 - (ii) sent to a member of the Board or the Review Committee,
 - (iii) sent to a member of the staff of the Board or the Review Committee, or
 - (iv) sent to an adviser appointed under *section 11*,

shall not be admissible as evidence against that person, or against any other person who may be liable for the acts or omissions of that person, in any criminal proceedings or in any civil proceedings in a court or other tribunal.

20.—(1) The Board or the Review Committee may require a person giving evidence to it to give his or her evidence on oath or affirmation.

Evidence on oath.

(2) The Chairperson or a member of the staff of the Board or the Review Committee Chairperson or a member of the staff of the Review Committee, authorised in that behalf by the Board or the Review Committee, may administer, as appropriate, the oath or affirmation to the witness concerned.

21.—The Board shall establish such procedures as it considers appropriate through which a claimant who has received an award may be given advice as to financial management of the award.

Advice on financial
management of
award.

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Income and award. **22.**—(1) For the purposes of the Income Tax Acts, and notwithstanding any provision of those Acts to the contrary—

- (a) income consisting of an award under this Act shall be disregarded for the purposes of income tax assessment, and
- (b) any payment in respect of an award under this Act 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 section “Income Tax Acts” has the meaning assigned to it by the Taxes Consolidation Act, 1997.

Special account. **23.**—(1) There shall be set up on the establishment day a special account, to be funded from—

- (a) moneys provided by the Oireachtas, and
- (b) moneys provided in accordance with *subsection (5)*.

(2) Moneys provided in accordance with—

- (a) *subsection (1)(a)* shall be used to pay awards made by the Board (including awards reviewed by the Review Committee), and the costs of the Board in administering this Act, and
- (b) *subsection (1)(b)* shall be used to pay awards made by the Board including awards reviewed by the Review Committee.

(3) Subject to *subsection (4)*, the moneys in the special account may be used at any time but shall only be used for the purposes for which they were voted (and contributed for under *subsection (5)*) and shall be issued out of that account only by direction of the Minister for Finance.

(4) Any moneys, including interest (if any), in the special account may be paid into, or disposed for the benefit of, the Exchequer in accordance with the directions of the Minister for Finance.

(5) A person, with the consent of the Minister and the Minister for Finance, may make a contribution to awards and shall pay the amount to be contributed to the Minister for Finance.

(6) The Minister for Finance shall pay a contribution referred to in *subsection (5)* into the special account established under this section.

(7) In this section “special account”, unless the context otherwise requires, means an account for the purposes of this Act in the joint names of the Minister and the Minister for Finance, which account shall—

- (a) be an account with the Paymaster General,

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(b) be subject to such terms and conditions as the Minister for Finance in consultation with the Minister, may determine, and

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(c) be subject to audit by the Comptroller and Auditor General.

24.—Where an applicant has accepted an award made under *section 13* or *section 15* and has complied with *section 13(6)*, no cause of action or claim for indemnity and contribution or either of them, whether by third party procedure pursuant to *section 27* of the Civil Liability Act, 1961 or otherwise, in any civil proceedings or otherwise, shall lie against the State or a public body if such proceedings arise out of the same, or substantially the same, acts complained of in an application made under this Act and in respect of which the applicant is a party.

Indemnity and contribution.

25.—Notwithstanding any period of time specified in rules of court for the payment into court, by way of lodgement, of a sum of money in satisfaction of a claim, where an applicant is deemed to have rejected an award in accordance with this Act, the Minister may, within 30 days of such deeming, pay the amount of an award made under this Act into the court concerned in respect of any civil proceedings in which the applicant is a party and which arise out of the same, or substantially the same, acts complained of in the application made by the applicant concerned under this Act.

Lodgement of money.

26.—(1) The Board shall submit an annual report of its activities and particulars of its accounts to the Minister at such time as the Minister directs.

Report of Board.

(2) The Board shall submit to the Minister, at such time as the Minister directs, such additional reports on such matters relating to the performance by it of its functions as shall be determined by the Minister.

(3) The Minister shall cause copies of a report made under this section to be laid before each House of the Oireachtas.

(4) A report of the Board shall not identify any applicant, institution or person referred to in an application.

27.—(1) The Board shall pay to an applicant to whom it has made an award (including an award that has been reviewed under *section 15*) a reasonable amount for expenses incurred by him or her relating to the preparation and presentation of the application as shall be agreed between the Board and the applicant and in default of such agreement such expenses shall be determined by a Taxing Master of the High Court.

Taxation of costs.

(2) The Board shall pay to an applicant who accepts an award (including an award that has been reviewed under *section 15*) the costs of any proceedings instituted by that applicant and to which the waiver under *section 13(6)* applies as shall be agreed between the Board and the applicant and in default of such agreement such expenses shall be determined by a Taxing Master of the High Court.

(3) Where expenses or costs are agreed or taxed regard shall be had to any expenses and costs concerning—

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- (a) the proceedings referred to in *subsection (2)*, or
- (b) a submission to the Investigation Committee,

for the purpose of ensuring that a payment for an item of such expenses or costs is not made more than once.

(4) In *subsection (3)* “Investigation Committee” has the meaning assigned to it by the Act of 2000.

Prohibition on disclosure of information.

28.—(1) A person (including the Board and the Review Committee) shall not, subject to this section, disclose information other than the information specified in *subsection (4)* or *(5)* that is provided to the Board or the Review Committee and obtained by that person in the course of the performance of the functions of the person under this Act.

(2) A person referred to in *subsection (1)* shall disclose information so referred to for the purpose of the performance of the functions of the person under this Act.

(3) Documents that are—

- (a) provided to or prepared by the Board and where appropriate the Review Committee, or
- (b) prepared by a person for the Board or the Review Committee in the course of the performance of the functions of such person as a member of the Board, Review Committee, a member of the staff of the Board or the Review Committee or an adviser,

shall not constitute Departmental records within the meaning of section 2(2) of the National Archives Act, 1986.

(4) The Board shall keep a record of the following information—

- (a) the name, address and date of birth of an applicant,
- (b) the name of the institution concerned,
- (c) the period in which the applicant was resident at the institution, and
- (d) the amount awarded to the applicant under this Act,

and such records shall be available to the Minister for the purposes of *section 13(13)* and to any party against whom proceedings are initiated contrary to *section 13(12)*.

(5) Notwithstanding *subsection (1)* or any other provision of, or an instrument made under, a statute or any other rule of law, a person shall disclose information other than the information specified in *subsection (4)* that is provided to the Board or the Review Committee and obtained by that person in the course of the performance of the functions of the person under this Act to—

- (a) a member of the Garda Síochána if 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, and

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(b) to an appropriate person (within the meaning of the Protections for Persons Reporting Child Abuse Act, 1998) if the person is acting in good faith and reasonably believes that such disclosure is necessary to prevent, reduce or remove a substantial risk to the life or to prevent the continuance of abuse of a child. S.28

(6) A person shall not publish any information concerning an application or an award made under this Act that refers to any other person (including an applicant), relevant person or institution by name or which could reasonably lead to the identification of any other person (including an applicant), a relevant person or an institution referred to in an application made under this Act.

(7) The Board shall, prior to the making of an order under *section 3(3)*, determine the disposal of the documents concerning applications made to it.

(8) The Review Committee shall, prior to the making of an order under *section 14(3)*, determine the disposal of the documents concerning applications made to it.

(9) A person who contravenes *subsection (1)* or *subsection (6)* shall be guilty of an offence.

29.—(1) In this section a “relevant body” means the Board or the Review Committee as the case may be. Staff.

(2) Subject to the consent of the Minister and the Minister for Finance, a relevant body may, from time to time, appoint such and so many persons to be employees of that relevant body as it thinks fit.

(3) An employee of a relevant body shall be employed on such terms and conditions as that relevant body, with the consent of the Minister and the Minister for Finance, may from time to time determine.

(4) A relevant body shall pay to its employees such remuneration, fees and allowances for expenses as the relevant body, with the consent of the Minister and the Minister for Finance, may from time to time determine.

30.—Section 4 of the Data Protection Act, 1988 does not apply to personal data provided to the Board while the data is in the custody of the Board or the Review Committee. Restriction of Data Protection Act, 1988.

31.—(1) A head may refuse to grant a request (including a request made before the passing of this Act) under section 7 of the Freedom of Information Act, 1997 (“a request”), if access to the records concerned could, in the opinion of the head, reasonably be expected to prejudice the effectiveness of the performance of its functions by the Board or the Review Committee or the procedures or methods employed for such performance. Application of Freedom of Information Act, 1997 to certain records.

(2) *Subsection (1)* does not apply in relation to a case in which in the opinion of the head concerned the public interest would, on balance, be better served by granting than by refusing to grant the request concerned.

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(3) Before forming the opinion referred to in *subsection (1)* or *(2)*, a head shall consult with the Chairperson.

(4) In this section, “head”, “public body” and “record” have the meanings assigned to them by section 2 of the Freedom of Information Act, 1997.

Amendment of Act of 2000.

32.—The Act of 2000 is amended by—

(a) the substitution for section 20 of the Act of 2000 of the following sections:

“Miscellaneous costs and expenses.

20.—(1) The Minister may, with the consent of the Minister for Finance and after consultation with the Commission, make a scheme providing for the payment by the Commission to a person who, pursuant to a request of a Committee or a direction attends before a Committee, of a reasonable amount in respect of the expenses incurred by the person in relation to such attendance.

(2) The Minister may, with the consent and after consultation aforesaid, make a scheme amending or revoking a scheme under this section.

(3) The Commission shall carry out a scheme under this section in accordance with its terms.

Legal representation and costs and expenses.

20A.—(1) The Investigation Committee may allow a person appearing before it to be represented by counsel or solicitor or otherwise.

(2) Subject to subsection (3), the Commission may pay such reasonable costs arising out of the representation referred to in subsection (1) to the person so represented as are agreed between the Commission and that person or, in default of agreement, such costs as may be taxed by a Taxing Master of the High Court.

(3) Where the Chairperson is of the opinion that a person has failed to co-operate with or provide assistance, or has knowingly given false or misleading information, to the Investigation Committee and there are sufficient reasons rendering it equitable to do so, the Chairperson may, on his or her own motion or pursuant to an application by a person appearing before the Investigation Committee, refuse to allow the whole or part of the costs of appearance to such person, and may make an order directing that the whole or part of such costs—

(a) of any person appearing before the Investigation Committee by counsel or solicitor, as may be taxed by a Taxing Master of the High Court in default of agreement, shall be paid to the person by the first-mentioned person, or

(b) incurred by the Investigation Committee, as may be taxed by a Taxing Master of the High Court in default of agreement, shall be paid to the Minister for Finance by the first-mentioned person. S.32

(4) The Commission may pay to a person (other than a person referred to in subsection (2)) who makes discovery of documents pursuant to a direction under section 14(1)(d) appearing before the Investigation Committee by counsel or solicitor such reasonable costs of appearing as may be agreed between the Commission and that person or, in default of agreement, as may be taxed by a Taxing Master of the High Court.

(5) Where, in accordance with this section, expenses or costs are agreed or taxed, the Commission, or, as the case may be, the Taxing Master shall have regard to—

(a) any expenses and costs paid to the person by the Residential Institutions Redress Board, and

(b) any expenses and costs paid to the person by the State in respect of any litigation concerning the same, or substantially the same, acts complained of to the Investigation Committee,

for the purpose of ensuring that payment is not made more than once for any matter arising out of such expenses or costs.”,

and

(b) the insertion after section 23 of the following new section:

“Deciding officers.

23A.—(1) The Commission may, with the consent of the Minister and the Minister for Finance, appoint persons (referred to in this Act as ‘deciding officers’) to assist the Investigation Committee in the carrying out of its functions.

(2) A deciding officer shall have such expertise in law, medicine, psychiatry, psychology or social work as the Commission considers appropriate.

(3) A deciding officer shall be appointed subject to such terms and conditions as the Minister, with the consent of the Minister for Finance, may determine.

(4) The Chairperson may, when making a determination under section 11(6), include such number of deciding officers as, in the opinion of the Chairperson, is appropriate.

(5) A deciding officer shall, in respect of a division of the Investigation Committee, exercise the functions of a member of that division.”.

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- Regulations. **33.**—(1) The Minister may make regulations giving effect to this Act and, without prejudice to the generality of the foregoing, such regulations may provide for—
- (a) the manner of payment of costs and expenses of an application under this Act, and
 - (b) an official seal of the Board.
- (2) The Minister may make regulations for prescribing any matter referred to in this Act as prescribed or to be prescribed.
- Penalties. **34.**—A person who is guilty of an offence under *sections 7(6) and 28(9)* shall be liable—
- (a) on summary conviction, to a fine not exceeding €3,000 (£2,362.69) or to imprisonment for a term not exceeding 6 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding €25,000 (£19,689.10) or imprisonment for a term not exceeding 2 years or both.
- Criminal records. **35.**—For the avoidance of doubt, a person who was detained in an industrial school pursuant to the Children Act, 1908, other than a person who was so detained as a consequence of a conviction for an offence, shall not be subject to any disqualification or any other restriction that is a consequence of a conviction for an offence.
- Power to remove difficulties. **36.**—(1) If in any respect any difficulty arises in bringing any provision of this Act into operation or in relation to the operation of any such provision, the Minister may by regulations do anything which appears to be necessary or expedient for the purposes of removing that difficulty, for bringing that provision into operation or for securing or facilitating its operation and any such regulations may modify any provision of this Act or any other enactment so far as may appear necessary or expedient for the purposes aforesaid.
- (2) No regulations may be made under this section after the expiration of one year after the establishment day.
- Laying of regulations. **37.**—Every regulation under this Act shall be laid by the Minister before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.
- Expenses. **38.**—The expenses incurred, including expenses incurred under *section 16*, by the Minister in the administration of this Act, shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided for by the Oireachtas.
- Short title. **39.**—This Act may be cited as the Residential Institutions Redress Act, 2002.

SCHEDULE

Section 1(1).

An Grianán Training Centre, Grace Park Road, Dublin 9
Artane Industrial School for Senior Boys, Dublin 5
Baltimore Fishery School for Senior Boys, Baltimore, Co. Cork
Benada Abbey Industrial School for Girls, Ballymote, Co. Sligo
Carriglea Park Industrial School for Senior Boys, Dun Laoghaire,
Co. Dublin
Cottage Home, Tivoli Road, Dun Laoghaire, Co. Dublin
Don Bosco House, Gardiner Street, Dublin 1
Family Group Home, Geevagh, Co. Sligo
Family Group Home, Letterkenny, Co. Donegal
Family Group Home, Wexford
Kirwan House, Ranelagh, Dublin 6
Madonna House, Blackrock, Co. Dublin
Madonna House, Merrion Road, Dublin 4
Martanna House Hostel, Grace Park Road, Dublin 9
Miss Carr's Children's Home, 5 Northbrook Road, Dublin 6
Mount Carmel Industrial School for Girls, Moate, Co. Westmeath
Nazareth House, Sligo
Orphanage Schools, Convent of Mercy, Kells, Co. Meath
Our Boy's Home, 95 Monkstown Road, Dun Laoghaire, Co. Dublin
Our Lady of Mercy Industrial School for Girls, Kinsale, Co. Cork
Our Lady of Succour Industrial School, Newtownforbes, Co.
Longford
Our Lady's Industrial School for Girls, Ennis, Co. Clare
Pembroke Alms (Nazareth House) Industrial School for Girls,
Tralee, Co. Kerry
CPI Marino Special School, Bray, Co. Wicklow
Cork University Hospital School
Harcourt Street Hospital, Dublin 2
Holy Family School for Moderate Learning Disability, Charleville,
Co. Cork
Our Lady of Good Counsel, Lota, Glanmire, Co. Cork
Our Lady of Lourdes Hospital, Dun Laoghaire, Co. Dublin
Our Lady's Hospital for Sick Children, Crumlin, Dublin 12
Sacred Heart Home, Drumcondra, Dublin 9
School of the Divine Child, Lavanagh, Ballintemple, Cork
School of the Holy Spirit, Seville Lodge, Kilkenny, Co. Kilkenny
Scoil Ard Mhuire, Lusk, Co Dublin
Scoil Eanna, School of the Angels, Montenotte, Cork
Scoil Triest, Lota, Glanmire, Co. Cork
St. Martin's Orphanage, Waterford
St. Clare's Orphanage, Harold's Cross, Dublin 6
St. David's, Lota, Glanmire, Co. Cork
St. Gabriel's School, Curraheen Road, Cork
St. Joseph's Orphanage, Tivoli Road, Dun Laoghaire, Co. Dublin
St. Joseph's Orphanage, Bundoran, Co. Donegal
St. Joseph's Orthopaedic Hospital for Children, Coole, Co.
Westmeath
St. Joseph's School for the Visually Impaired, Drumcondra, Dublin
9
St. Kevin's Reformatory, Glencree, Co. Wicklow
St. Martha's Industrial School, Monaghan
St. Martha's Industrial School, Merrion, Dublin 4
St. Mary's Orthopaedic Hospital, Baldoyle, Dublin 13
St. Mary's Orthopaedic Hospital, Cappagh, Dublin 11
St. Mary's School for Visually Impaired Girls, Merrion, Dublin
St. Vincent's Centre for Persons with Intellectual Disability, Lisna-
gry, Limerick
St. Vincent's Orphanage, North William St, Dublin 9
St. Aidan's Industrial School for Girls, Newross, Co. Wexford
St. Aloysius' Industrial School for Girls, Clonakilty, Co. Cork

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- SCH. St. Ann's Industrial School for Girls and Junior Boys, Renmore, Lenaboy, Co. Galway
St. Anne's Industrial School for Girls, Booterstown, Co. Dublin
St. Anne's Reformatory School for Girls, Kilmacud, Co. Dublin
St. Anne's, Sean Ross Abbey, Roscrea, Co. Tipperary
St. Augustine's Industrial School for Girls, Templemore, Co. Tipperary
St. Augustine's, Obelisk Park, Carysfort Avenue, Blackrock, Co. Dublin
St. Bernadette's, Bonnington, Montenotte, Cork
St. Bernard's Industrial School for Girls, Fethard, Dundrum, Co. Tipperary
St. Bridgid's Industrial School for Girls, Loughrea, Co. Galway
St. Cecilia's, Cregg House, Sligo
St. Clare's Orphanage, Harold's Cross, Dublin 6
St. Coleman's Industrial School for Girls, Cobh/Rushbrook, Co. Cork
St. Columba's Industrial School for Girls, Westport, Co. Mayo
St. Conleth's Reformatory School for Boys, Daingean, Co. Offaly
St. Dominick's Industrial School for Girls, Waterford
St. Finbarr's Industrial School for Girls, Sundays Well, Marymount, Cork
St. Francis Xavier's Industrial School for Girls and Junior Boys, Ballaghaderreen, Co Roscommon
St. Francis' & St Mary of the Angels, Beaufort, Killarney, Co. Kerry
St. Francis' Industrial School for Girls, Cashel, Co. Tipperary
St. George's Industrial School for Girls, Limerick
St. John's Industrial School for Girls, Birr, Co. Offaly
St. Joseph's Industrial School for Boys, Passage West, Co. Cork
St. Joseph's Industrial School for Boys, Tralee, Co. Kerry
St. Joseph's Industrial School for Girls and Junior Boys, Ballinasloe, Co. Galway
St. Joseph's Industrial School for Girls and Junior Boys, Clifden, Co. Galway
St. Joseph's Industrial School for Girls and Junior Boys, Liosomoine, Killarney, Co. Kerry
St. Joseph's Industrial School for Girls, Cavan
St. Joseph's Industrial School for Girls, Dundalk, Co. Louth
St. Joseph's Industrial School for Girls, Kilkenny
St. Joseph's Industrial School for Girls, Mallow, Co. Cork
St. Joseph's Industrial School for Girls, Summerhill, Athlone, Co. Westmeath
St. Joseph's Industrial School for Girls, Whitehall, Drumcondra, Dublin 9
St. Joseph's Industrial School for Senior Boys, Ferryhouse, Clonmel, Co. Tipperary
St. Joseph's Industrial School for Senior Boys, Glin, Co. Limerick
St. Joseph's Industrial School for Senior Boys, Greenmount, Cork
St. Joseph's Industrial School for Senior Boys, Letterfrack, Co. Galway
St. Joseph's Industrial School for Senior Boys, Salthill, Co. Galway
St. Joseph's Orphanage, Tivoli Road, Dun Laoghaire
St. Joseph's Reformatory School for Girls, Limerick
St. Joseph's School for Hearing Impaired Boys, Cabra, Dublin 7
St. Joseph's School for the Visually Handicapped, Drumcondra, Dublin 9
St. Kyran's Industrial School for Junior Boys, Rathdrum, Co. Wicklow
St. Laurence's Industrial School for Girls, Sligo
St. Laurence's Industrial School, Finglas, Dublin 11
St. Martha's Industrial School for Girls, Bundoran, Co. Donegal
St. Mary's Industrial School, Lakelands, Sandymount, Dublin 4
St. Mary's Orthopaedic Hospital, Baldoyle, Dublin 13

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 Act, 2002.

St. Mary's Orthopaedic Hospital, Cappagh, Finglas, Dublin 11 SCH.
St. Mary's School for Hearing Impaired Girls, Cabra, Dublin 7
St. Mary's, Delvin, Co. Westmeath
St. Mary's, Drumcar, Dunleer, Co. Louth
St. Mary's, Rochestown, Cork
St. Michael's Industrial School for Girls, Wexford
St. Michael's Industrial School for Junior boys, Cappoquin, Co.
Waterford
St. Michael's, Glenmaroon, Chapelizod, Dublin 20
St. Mura's Orphanage, Fahan, Co. Donegal
St. Patrick's Industrial School for Boys, Upton, Cork
St. Patrick's Industrial School for Junior Boys, Kilkenny
St. Paul's Hospital, Beaumont, Dublin 9
St. Paul's, Montenotte, Cork
St. Saviour's Orphanage, Lr. Dominick Street, Dublin 1
St. Vincent's (House of Charity) Industrial School for Junior Boys,
Drogheda, Co. Louth
St. Vincent's Industrial School for Girls, Limerick
St. Vincent's Industrial School, Goldenbridge, Inchicore, Dublin 8
St. Vincent's Orphanage, Glasnevin, Dublin 9
St. Vincent's, Navan Road, Dublin 7
Stewart's Hospital, Palmerstown, Dublin 20
Tabor House, Dublin
Temple Street Hospital, Dublin 1
The Bird's Nest Home, 19 York Road, Dun Laoghaire, Co. Dublin
The Los Angeles Homes, Dublin
The O'Brien Institute, Malahide Road, Dublin
Trudder House, Newtownmountkenedy, Co. Wicklow
Warrenstown House, Corduff Road, Blanchardstown, Dublin 15