Draft Order laid before the Scottish Parliament under section 253B(7) of the Criminal Procedure (Scotland) Act 1995 (c. 46), for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

CRIMINAL LAW

The Restitution Fund (Scotland) Order 2025

Made - - - -	*2025*
Coming into force - -	*24th June 2025*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 253B(5) and (6) of the Criminal Procedure (Scotland) Act 1995(**a**), section 33(1) of the Victims and Witnesses (Scotland) Act 2014(**b**) and all other powers enabling them to do so.

In accordance with section 253B(7) of the Criminal Procedure (Scotland) Act 1995, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament(**c**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Restitution Fund (Scotland) Order 2025 and comes into force on 24 June 2025.

(2) In this Order—

"the 2021 Order"means the Restitution Fund (Scotland) Order 2021(**d**).

"the Fund" means the Restitution Fund established, maintained and administered under section 253B of the Criminal Procedure (Scotland) Act 1995 and this Order.

The administration of the Restitution Fund

2. The Fund must be administered by the Scottish Ministers in accordance with articles 3 to 6.

3. The Scottish Ministers must have regard to the need to —

(a) promote equality and diversity, and

(b) prevent discrimination, harassment and victimisation on the basis of any of the protected characteristics listed in section 4 of the Equality Act 2010.

(**a**) 1995 c. 46. Section 253B was inserted by section 25 of the Victims and Witnesses (Scotland) Act 2014 (asp 1).
(**b**) 2014 asp 1.
(**c**) The powers to make these Regulations are exercised together by virtue of section 33(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10). These Regulations are subject to the affirmative procedure by virtue of section 33(3) of that Act.
(**d**) S.S.I. 2021/58.

Making payments out of the Fund

4.—(1) No payments may be made from the Fund prior to 1 April 2026.

(2) A payment from the Fund may only be made by the Scottish Ministers to a person who provides or secures the provision of support services for victims where—

(a) that person has made a written application to the Scottish Ministers for payment, and

(b) the Scottish Ministers have approved that application for payment.

(3) Without prejudice to the Scottish Ministers' ability to approve or reject an application for payment from the Fund, the Scottish Ministers may reject an application for payment from the Fund where the Scottish Ministers consider that there are insufficient monies in the Fund.

(4) Subject to paragraph (5), payments from the Fund may be made subject to such conditions as the Scottish Ministers consider appropriate.

(5) All payments made from the Fund must be made subject to conditions which require—

(a) the payment to be used for a purpose specified by the Scottish Ministers, and

(b) the recipient of the payment to repay monies to the Scottish Ministers, on the Scottish Ministers' demand, if a condition attaching to the payment is not complied with.

(6) For the purposes of paragraph (2), a written application includes an application submitted to the Scottish Ministers electronically.

Record-keeping

5.—(1) The Scottish Ministers must keep records of—

(a) every payment made into the Fund,

(b) every payment made out of the Fund,

(c) the outlays incurred in administering the Fund which have been paid to the Scottish Ministers under section 253B(4)(b) of the Criminal Procedure (Scotland) Act 1995,

(d) the balance of the Fund.

(2) Records kept by the Scottish Ministers under paragraph (1) may be disposed of by the Scottish Ministers after 6 years.

Duty to prepare and publish reports

6.—(1) The Scottish Ministers must prepare and publish a report on the administration of the Fund no later than—

(a) 31 July 2026, and

(b) 31 July in each subsequent year.

(2) The report prepared and published under paragraph (1) must include the information contained in records kept in accordance with article 5 for the following periods—

(a) in relation to the report published under paragraph (1)(a), the period beginning with the date of the coming into force of this Order up to and including 31 March 2026, and

(b) in relation to reports published under paragraph (1)(b), the period of 12 months up to and including 31 March each year.

Revocation and saving

7.—(1) The 2021 Order is revoked subject to paragraphs (2) and (3).

(2) Where paragraph (3) applies—

(a) article 2 (interpretation) of the 2021 Order continues to have effect on and after 24 June 2025 as if for the definition of "the operator" there were substituted ""the operator" means the Scottish Ministers,",

(b) articles 5 (making payments out of the Fund) and 6 (record-keeping) of the 2021 Order continue to have effect on and after 24 June 2025 as they had effect immediately before that date.

(3) This paragraph applies in the case of an application made under article 5(2)(a) of the 2021 Order prior to 24 June 2025.

A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Order)

Where a restitution order is imposed on an individual under section 253A of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"), all monies received by the court in payment of the order are to be paid to the Scottish Ministers under section 253B(1). The Scottish Ministers are then obliged under section 253B(2) to pay all monies so received into a fund to be known as the Restitution Fund ("the Fund"). The Restitution Fund (Scotland) Order 2021 ("the 2021 Order") provided for the delegation of the establishment, maintenance and administration of the Fund to the Scottish Police Benevolent Fund.

Articles 2 and 3 of this Order make general provision about the administration of the Fund by the Scottish Ministers. Under Article 3, the Scottish Ministers must have regard to the need to promote equality and diversity and prevent discrimination, harassment and victimisation in the administration of the Fund.

Article 4 makes provision for the payment of monies from the Fund. Payments can commence from 1 April 2026 onwards. Payments can only be made following the receipt of a written or electronic application from the prospective recipient of the payment and the approval of that application by the Scottish Ministers. The Scottish Ministers may reject an application if they consider that there are insufficient monies in the Fund although this is without prejudice to the Scottish Ministers' general discretion to determine applications. Payments from the Fund may be made subject to conditions but there are two mandatory conditions which must be attached to every such payment from the Fund: (1) that the payment must be used for a specified purpose; and (2) the payment must be repaid on demand if any condition is not complied with.

Article 5 provides details of the matters which must be recorded by the Scottish Ministers and for how long those records must be kept.

Article 6 places an obligation on the Scottish Ministers to prepare and publish an annual report on the administration of the Fund. Each report must include the information recorded by the Scottish Ministers under article 5. The first report covers the period from the date of the coming into force of the Order and ending on 31 March 2026 and subsequent reports cover the 12 months up to and including 31 March each year.

Article 7 of this Order revokes the 2021 Order subject to saving provision.

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