POLICY NOTE

THE CRIMINAL JUSTICE MODERNISATION AND ABUSIVE DOMESTIC BEHAVIOUR REVIEWS (SCOTLAND) ACT 2025 (COMMENCEMENT NO. 1 AND TRANSITIONAL PROVISION) REGULATIONS 2026

SSI 2026/85

The above instrument was made in exercise of the powers conferred by section 34(4) and (5) of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 ("the Act"). The instrument is laid no procedure.

Summary Box

This instrument will bring into force certain provisions of Part 2 of the Act (domestic homicide and suicide reviews) on 26 February 2026. The provisions commenced on that date consist of powers to make regulations and provisions related to relevant public appointments and other preparatory matters such as the production of guidance. Full commencement of Part 2 on 1 April 2026 is provided for and this will enable domestic homicide and suicide reviews to be carried out from that date. Transitional provision in regulation 3 means that only deaths occurring on or after 1 April 2026 can be eligible for a domestic homicide or suicide review. This instrument will also bring into force certain parts of Part 1 of the Act, which are the extension of national jurisdiction for custody cases to the Justice of the Peace courts and the requirement to carry out a review of virtual attendance at court. Commencement of the remaining measures in Part 1 of the Act is subject to ongoing stakeholder engagement.

Policy Objectives

The Act serves a dual purpose: firstly, to provide for the ongoing and future resilience and efficiency of the criminal justice sector through modernisation, in particular through greater use of digital processes; and secondly, to provide for Scotland's national domestic homicide and suicide review model. This note supplements the policy memorandum for the Act[1].

Part 1 – Criminal Justice Modernisation

The Covid-19 pandemic increased the pace of adoption of digital processes in the justice system. New technological solutions allowed justice agencies to meet the challenges of the pandemic. The Coronavirus (Recovery and Reform) (Scotland) Act 2022 (the 2022 Act) built on the emergency legislation introduced in response to the pandemic and allowed digitalised justice provisions to continue. One of the main objectives of Part 1 of the Act is to make some of these provisions permanent, to deliver significant longer term benefits and provide a basis for the future resilience, effectiveness and efficiency of the criminal justice sector.

Part 2 – Domestic Homicide and Suicide Reviews

Domestic homicide and suicide reviews (DHSRs) aim to identify what lessons can be learned, and how that learning can be applied, in cases where someone has died following suspected or known domestic abuse.

1 https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/criminal-justice-modernisation-and-abusive-domestic-behaviour-reviews-scotland-bill/introduced/policy-memorandum.pdf

DHSRs are not investigations into how a death occurred and are not about apportioning blame for a death. They are about identifying and implementing learning in order to help prevent future deaths and to give a voice to those who have died.

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
Consultation and engagement on both parts of the Act took place throughout the Parliamentary scrutiny process. Specific consultation and engagement on both Parts also took place as outlined below.

Part 1

A consultation on whether certain criminal justice measures from the 2022 Act should be made permanent, alongside whether other criminal justice procedures could be modernised through greater use of digital processes, ran for 14 weeks between 6 November 2023 and 12 February 2024. The analysis report was published on 8 July 2024. The majority of respondents who responded to each question expressed support for every proposal.

Part 2

Consultation on the development of DHSRs in Scotland has taken place with agencies across the criminal justice sector, the third sector, and beyond. Consultation has also taken place with people with lived experience of domestic abuse, including people who have been bereaved by domestic abuse. A multi-agency taskforce, subgroups and associated working groups have been established to develop the DHSR model for Scotland.

Consultation on the specific provisions covered by this SSI took place during the development of the Act and the DHSR model. We therefore do not believe that further consultation is required for this instrument.

Impact Assessments
Impact assessments were carried out as part of the passage of the Act. We therefore do not believe that further impact assessments are required for this instrument.

Financial Effects
The Cabinet Secretary for Justice and Home Affairs confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Criminal Justice Directorate

February 2026