POLICY NOTE

THE DOMESTIC ABUSE (PROTECTION) (SCOTLAND) ACT 2021 (CONSEQUENTIAL AND SUPPLEMENTARY AMENDMENTS) REGULATIONS 2026

SSI 2026/XXX

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 23(1) of the Domestic Abuse (Protection) (Scotland) Act 2021(**1**) and all other powers enabling them to do so. The instrument is subject to affirmative procedure.

Summary Box

These Regulations make a number of consequential and supplementary amendments to support the commencement of sections 2, 3 and 22 of the Domestic Abuse (Protection) (Scotland) Act 2021.

Policy Objectives

The overarching policy objectives of Part 2 of the Domestic Abuse (Protection) (Scotland) Act 2021 are to to improve the immediate and longer term housing outcomes of domestic abuse victims living in social housing who wish to continue living in the family home, including through helping to avoid homelessness.

These Regulations support the commencement of sections 2, 3 and 22 of the Domestic Abuse (Protection) (Scotland) Act 2021 in a number of ways. Firstly they amend section 35 of the Sheriff Courts (Scotland) Act 1971 to provide that proceedings for termination of a joint tenant's interest can be raised by way of summary cause.

Secondly, they amend section 72 of the Courts Reform (Scotland) act 2014 to provide that these proceedings can be raised by way of simple procedure (once it comes into force).

Thirdly, they amend section 216 of the Bankruptcy and Diligence etc (Scotland) Act 2007 to provide that the rule authorising the removal of any occupant deriving right from the defender does not apply to the victim of the abuse or a member of the victim's family (unless that family member is named in the decree).

Finally, these Regulations amend section 14 of the Housing (Scotland) Act 2001 to provide that the victim of the abuse is included in the definition of qualifying occupier thereby ensuring that the landlord must take steps to identify them before serving an eviction notice. This change will also ensure that the victim can be sisted as a party to the eviction proceedings under section 15 of the 2001 Act.

These regulations are subject to affirmative procedure and therefore will not be made until 2026. The purpose of these Regulations is to ensure that the procedure by which a social landlord can evict an abusive tenant, and leave the tenancy in the name of the victim/survivor of the abuse, can operate as intended.

(**1**) 2021 asp 16.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, The Domestic Abuse (Protection) (Scotland) Act 2021 (Consequential and Supplementary Amendment Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

We consulted with key stakeholders including the Chartered Institute of Housing, Scotland, the Society of Local Authority Lawyers and Administrators, the Scottish Courts and Tribunals Service, Scottish Women's Aid and a small number of social landlords on a draft of these regulations. No changes were subsequently proposed by these stakeholders or made to these draft regulations.

Impact Assessments

A range of impact assessments were carried out for the Domestic Abuse (Protection) (Scotland) Bill 2020 including an Equality Impact Assessment and a Child Rights and Wellbeing Impact Assessment. The impacts as set out in these assessments remain relevant and we are not publishing updated assessments, other than for Child Rights and Wellbeing Impact Assessment at this time.

Financial Effects

The Cabinet Secretary for Housing confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Better Homes Directorate

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