Draft Order laid before the Scottish Parliament under section 10(2) of the Rehabilitation of Offenders Act 1974, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

REHABILITATION OF OFFENDERS

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026

Made - - - -	*2026*
Coming into force - -	*1st April 2026*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 4(4) and paragraph 6 of schedule 3 of the Rehabilitation of Offenders Act 1974(**a**) and all other powers enabling them to do so.

In accordance with section 10(2)(**b**) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 and comes into force on 1 April 2026.

Amendment of the Rehabilitation of Offenders (Exclusions and Exceptions) (Scotland) Order 2013

2.—(1) The Rehabilitation of Offenders (Exclusions and Exceptions) (Scotland) Order 2013(**c**) is amended as follows.

(2) In article 2(1) (interpretation)—

(a) after the definition of "the 2010 Act" insert—

> ""the 2025 Act" means the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025(**d**);",

(**a**) 1974 c. 53. The functions of the Secretary of State under section 4(4) were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Schedule 3 was inserted by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) section 109(4).

(**b**) Section 10(2) has been modified by section 118(2) of the Scotland Act 1998 and paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

(**c**) S.S.I. 2013/50, as relevantly amended by S.I. 2013/1388, S.I. 2019/325, S.S.I. 2020/45 and S.I. 2024/114.

(**d**) 2025 asp 14.

(b) after the definition of "depositary" insert—

""designated core participant" has the meaning given by section 25(6) of the 2025 Act;",

(c) after the definition of "relevant collective investment scheme" insert—

""requiring authority" has the meaning given by section 26(6) of the 2025 Act;".

(3) After article 4 (exclusion of section 4(2)(a) and (b) of the Act) insert—

"Exclusion of section 4(2)(a) and (b) of the Act: domestic homicide and suicide reviews

4A.—(1) The application of section 4(2)(a) and (b) of the Act is excluded in relation to questions put in circumstances to which paragraph (2) or (3) applies.

(2) This paragraph applies where the question requires to be answered as part of the duty of co-operation of a designated core participant under section 25(1) of the 2025 Act.

(3) This paragraph applies where the question requires to be answered as a result of a notice issued by a requiring authority under section 26(1) of the 2025 Act.".

(4) In article 5 (exceptions from section 4(3) of the Act), before paragraph (1) insert—

"(A1) There is excepted from the provisions of section 4(3)(a) of the Act an obligation—

(a) forming part of the duty of co-operation of a designated core participant under section 25(1) of the 2025 Act;

(b) to provide a requiring authority with information in response to a notice issued under section 26(1) of the 2025 Act.".

(5) In article 5A (exclusion of certain paragraphs of schedule 3 of the Act)—

(a) in the heading, after "4(2) and (3)," insert "5(1),",

(b) after paragraph (2) insert—

"(2A) The application of paragraph 4(2) and (3) of schedule 3 of the Act is excluded in relation to any question which requires to be answered—

(a) as part of the duty of co-operation of a designated core participant under section 25(1) of the 2025 Act;

(b) as a result of a notice issued by a requiring authority under section 26(1) of the 2025 Act.

(2B) There is excepted from the provisions of paragraph 5(1) of schedule 3 of the Act an obligation—

(a) forming part of the duty of co-operation of a designated core participant under section 25(1) of the 2025 Act;

(b) to provide a requiring authority with information in response to a notice issued under section 26(1) of the 2025 Act.".

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Rehabilitation of Offenders (Exclusions and Exceptions) (Scotland) Order 2013 ("the 2013 Order") in connection with the establishment of domestic homicide and suicide reviews under Part 2 of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025 ("the 2025 Act"). These reviews examine events associated with a domestic homicide or suicide with a view to learning lessons for the future.

Article 2(2) of this Order inserts new definitions into the 2013 Order in connection with the amendments made by article 2(3) to (5).

The amendments made by article 2(3) to (5) of this Order provide for exclusions and exceptions from provisions of the Rehabilitation of Offenders Act 1974 ("the 1974 Act") which prevent disclosure of information about an individual's previous convictions or alternatives to prosecution after these have become spent under that Act. (Alternatives to prosecution are defined in section 8B of the 1974 Act). These exclusions and exceptions apply where either a designated core participant in a domestic homicide or suicide review is required to provide information as part of their duty to co-operate in that review (see section 25(1) of the 2025 Act) or a person is required to provide information in connection with such a review in response to a notice issued by a requiring authority under section 26(1) of the 2025 Act. In either case, that duty to provide information will encompass details of spent convictions and alternatives to prosecution where these are covered by the relevant information request or notice.

These exclusions and exceptions will enable a domestic homicide or suicide review to examine the full history of an abusive relationship including any convictions or alternatives to prosecution which have become spent.

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