POLICY NOTE

THE HUMAN TRAFFICKING AND EXPLOITATION (SCOTLAND) ACT 2015 (COMMENCEMENT NO. 6) REGULATIONS 2026

SSI 2026/129

The above instrument was made in exercise of the powers conferred by section 45(2) and (3) of the Human Trafficking and Exploitation (Scotland) Act 2015

Summary Box

The purpose of this instrument ('Commencement Regulations') is to bring into force section 38 of the Human Trafficking and Exploitation (Scotland) Act 2015 ('the 2015 Act') for the purpose of giving notifications under section 38(1) and (4) in relation to adults who are or appear to be victims and who have not consented to enter the National Referral Mechanism (NRM). The Commencement Regulations will be made 5 March 2026, laid 9 March 2026 and come into force on 1 February 2027.

Policy Objectives

The Commencement Regulations bring section 38 into force only for notifications concerning adults who have not consented to NRM referral. Section 38 of the 2015 Act establishes a duty for specified Scottish public authorities to notify the Chief Constable of the Police Service of Scotland where a person is or appears to be a victim of human trafficking, slavery, servitude or forced or compulsory labour. It also provides for onward notification by the Chief Constable to specified bodies and for regulations to specify the information to be included in such notifications.

It is envisaged that onward notifications under section 38(4) will be periodic and aggregated, reflecting anonymised statistical information only. In accordance with section 38(2) and (5) and regulation 7 of the Duty to Notify Regulations, notifications must not include information that would enable identification of a victim.

The Human Trafficking and Exploitation (Scotland) Act 2015 (Duty to Notify) Regulations 2026 ('Duty to Notify Regulations') set out the public authorities subject to the duty and the information to be included in notifications.

The NRM, which predates the 2015 Act, is the UK framework for identifying and supporting potential victims of trafficking and exploitation. Children are referred automatically into the NRM, and adults who consent to referral are recorded within NRM data. Statistics derived from the NRM, published by the Home Office, therefore capture information relating to those individuals and form the primary source of trafficking data within Scotland and the rest of the UK.

The Duty to Notify Regulations complement the NRM by capturing anonymised information in circumstances where an adult who is, or appears to be, a victim does not consent to referral and would not otherwise be reflected in NRM statistics.

The Commencement Regulations bring section 38 into force for the purpose of giving notifications under section 38(1) and (4) in relation to adults who have not consented to referral into the NRM. Commencing the duty in this defined manner addresses the specific evidential gap identified above, supports a more complete understanding of trafficking trends in Scotland, and avoids duplication of data collection where information is already available through existing mechanisms.

Commencing the duty in this focused and proportionate way maintains operational clarity and alignment with the policy objective of strengthening Scotland's evidence base in relation to trafficking and exploitation is maintained. The operation of the duty will be kept under review in light of implementation experience and any future developments in referral or data collection frameworks.

The Duty to Notify Regulations and Commencement Regulations will come into force on 1 February 2027. The deferred commencement date provides an appropriate implementation period to allow engagement with specified public authorities, alignment of existing information-sharing systems and processes, and the development of supporting operational guidance to ensure consistent and proportionate delivery of the duty.

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

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers state that, in their view, the Commencement Regulations are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Section 11 of the 2015 Act requires Scottish Ministers to appoint an independent child trafficking guardian for any child who is believed to be a victim (or potential victim) of trafficking and has no parent or guardian in the UK. Section 12 requires authorities to treat a person as a child where there are reasonable grounds to believe they may be under 18 until a formal age assessment is completed.

The Commencement Regulations do not amend, replace or otherwise affect these arrangements, nor do they introduce, remove or modify any rights, entitlements or services relating to children. On this basis, the Commencement Regulations do not constitute a decision of a strategic nature relating to the rights and wellbeing of children.

EU Alignment Consideration

Directive (EU) 2011/36 on preventing and combating trafficking in human beings established the standards expected for Member States on prosecution, victim protection and data collection. Directive (EU) 2024/1712 amended Directive (EU) 2011/36 by inserting Article 19a, which provides that "*Member States shall ensure that a system is in place for the*

recording, production and provision of anonymised statistical data to monitor the effectiveness of their systems to combat offences referred to in this Directive". Directive (EU) 2024/1712 (OJ L, 24.6.2024) entered into force on 14 July 2024; Member States must transpose by 15 July 2026. The 2015 Act is the primary legislation through which Scotland maintains alignment with Directive 2011/36/EU as amended. Commencement of section 38 for the defined purpose set out in the Commencement Regulations supports ongoing alignment with Article 19a by enabling the collection of anonymised statistical data relating to victims not otherwise captured through the NRM framework.

Consultation

The content of the Duty to Notify Regulations was subject to public consultation in 2019 and targeted engagement in 2025 with public bodies and stakeholders in the trafficking sector. Consultation responses supported the objective of improving the evidence base relating to trafficking and exploitation and highlighted the importance of proportionate and practical implementation. Commencing section 38 for the defined purpose set out in the Commencement Regulations aligns with the objective consulted upon, namely improving the availability of anonymised statistical data where such information is not otherwise captured through the NRM.

Impact Assessments

For the laying of the Duty to Notify Regulations, the following impact assessments were undertaken.

- Equalities Impact Assessment (EQIA)
- Legislation Data Protection Impact Assessment (DPIA)
- Children's Rights and Wellbeing Impact Assessment (CRWIA)

The impact assessments undertaken in relation to the Duty to Notify Regulations remain applicable to commencement of section 38 for the defined purpose set out in the Commencement Regulations. Given the adults-only scope of commencement and the absence of any change to child-facing arrangements, a separate CRWIA is not required for the Commencement Regulations. The DPIA prepared for the Duty to Notify Regulations will be reviewed and updated prior to go-live to address any residual re-identification risks in small-number scenarios.

Financial Effects

The implementation of the Duty to Notify Regulations, together with the targeted commencement of section 38 for adults who do not consent to NRM referral, is not expected to generate significant additional costs. As an administrative information sharing requirement, it will be delivered through existing platforms and established operational processes. The Duty to Notify Regulations do not introduce new statutory obligations around workforce training or service delivery. Current training materials and operational guidance already support the relevant functions across public bodies and can be updated as required to reflect the new duty. Any further guidance needed to ensure consistent implementation will be developed collaboratively between the Scottish Government and affected public bodies, making use of existing resources and established channels. The Minister for Victims and

Community Safety has confirmed that no Business and regulatory impacts assessment is necessary as the Duty to Notify Regulations has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Justice Directorate

26.02.2026