

# **PREVENTION OF DOMESTIC ABUSE (SCOTLAND) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Prevention of Domestic Abuse (Scotland) Bill, introduced in the Scottish Parliament on 7 May 2025.
2. The following other accompanying documents are published separately:
  - a Financial Memorandum (SP Bill 67–FM);
  - a Policy Memorandum (SP Bill 67–PM);
  - a Delegated Powers Memorandum (SP Bill 67–DPM);
  - statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 67–LC).
3. These Explanatory Notes have been prepared by the Non-Government Bills Unit, on behalf of Pam Gosal MSP, the Member in Charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

### **THE BILL**

#### **Overview and Summary**

5. The Bill, which makes a number of changes to the law in relation to domestic abuse, is in 5 parts as follows:
  - Part 1 – will introduce notification requirements for domestic abuse offenders, similar to those on sex offenders, to ensure they can be effectively monitored and subject to monitoring and management through the existing multi-agency public protection arrangements (MAPPA) under the Management of Offenders etc. (Scotland) Act 2005.<sup>1</sup>

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<sup>1</sup> [Management of Offenders etc. \(Scotland\) Act 2005 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2005/10/contents)

- Part 2 – will require consideration to be given to the suitability of rehabilitation measures for domestic abuse offenders at various stages in their journey through the criminal justice system: prior to sentencing, while in custody and prior to release.
- Part 3 – will provide for the collection of data on the victims of domestic abuse by Police Scotland, the Crown Office and Procurator Fiscal Service and charities, as well as production and publication of an annual report to the Scottish Parliament by the Scottish Ministers to enable scrutiny of the data collected.
- Part 4 – will establish duties on the Scottish Ministers and education authorities around the promotion, facilitation and support of domestic abuse education in schools, including related guidance, standards and reporting.
- Part 5 – contains the final provisions, including regulation-making powers, ancillary provision and provides for the commencement of the Bill.

## **Commentary on sections**

### ***Part 1 – Notification requirements for domestic abuse offenders***

#### *Section 1 – Persons subject to notification requirements*

6. Part 1 of the Bill establishes a requirement on certain domestic abuse offenders to notify certain personal details to the police. There are similar requirements placed on sex offenders under the Sexual Offences Act 2003.<sup>2</sup> Section 1 sets out the persons who are required to comply with the notification requirements. Such a person is referred to as a “domestic abuse offender” (subsection (3)). Subsection (1) provides that notification requirements apply to a person who has been convicted on indictment of one of the offences involving domestic abuse set out in subsection (2) and in respect of that conviction have either been released following a sentence of imprisonment (as defined in section 16) for a period of 12 months or more, or are subject to a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995<sup>3</sup> imposing an offender supervision requirement. The requirements apply only in relation to a conviction occurring on or after the day that this section comes into force.

7. The offences which may lead to an offender being subject to the notification requirements, are the offence of abusive behaviour towards a partner or ex-partner under section 1 of the Domestic Abuse (Scotland) Act 2018<sup>4</sup>, the offence of breaching a domestic abuse protection order or an interim domestic abuse protection order under section 17 of the Domestic Abuse (Protection) (Scotland) Act 2021<sup>5</sup> or any other offence where the offence is aggravated by involving abuse of the partner or ex-partner of the person committing it under section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.<sup>6</sup>

#### *Section 2 – The notification period*

8. Section 2 sets out the period during which the domestic abuse offender will be subject to the notification requirements. In the most serious cases, as reflected in the sentence passed for the

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<sup>2</sup> [Sexual Offences Act 2003 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2003/32/section/1)

<sup>3</sup> [Criminal Procedure \(Scotland\) Act 1995 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1995/46/section/227A)

<sup>4</sup> [Domestic Abuse \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2018/12/section/1)

<sup>5</sup> [Domestic Abuse \(Protection\) \(Scotland\) Act 2021 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2021/12/section/17)

<sup>6</sup> [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2016/12/section/1)

offence (i.e. imprisonment for longer than 30 months), the person will be subject to the requirements for an indefinite period. This is subject to review, as set out in sections 8 to 11. In less serious cases, where the domestic abuse offender has been sentenced to imprisonment for a period between 12 months and 30 months, the offender will be subject to the requirements for a fixed period which is proportionate to the length of the sentence received. As set out in subsection (2), the period of the notification requirements in such cases will be 3 times the length of the period of imprisonment that was imposed in respect of the conviction. For example, if a domestic abuse offender was sentenced to 20 months imprisonment, then the notification requirements would last 5 years. The longest sentence for which there is a fixed period is 30 months, therefore the longest period for which the notification requirements would be is 7 years and 6 months. The notification period for those offenders subject to a community payback order, lasts while the order is in effect. In all cases, the notification period starts from the date of conviction.

9. Subsection (3) provides that, where an adult would be subject to the notification requirements for a determinate period as a result of imprisonment, that period will be halved in the case of an offender who is under 18 at the time of conviction. For example, a domestic abuse offender who is under 18 at the time of conviction and sentenced to 10 months imprisonment would be subject to the notification requirements for 1 year and 3 months.

10. Subsections (4) and (5) set out how to calculate the notification period where an offender is sentenced for more than one domestic abuse offence and these sentences of imprisonment run consecutively or concurrently. Where the terms are consecutive, they should be added together. For example, where an offender is sentenced to 12 months' imprisonment for one relevant offence and 13 months' imprisonment for another such offence, to run consecutively, the sentence would be treated as 25 months' imprisonment for the purposes of working out the notification period (in this case, 6 years and 3 months). If the consecutive terms added up to over 30 months, then the indefinite notification period would apply. Terms will be partly concurrent when they are imposed on different occasions. An example would be where an offender is sentenced to 10 years' imprisonment, and 6 years into this term they are sentenced to 12 years' imprisonment for a second domestic abuse offence. Where this is the case, the notification period is based on the combined length of the terms minus any overlapping period. In the example given, the combined length of the sentences would be 22 years, and the overlapping period would be the remaining 4 years of the 10 year sentence. So, the sentence for the purposes of working out the notification period would be 18 years.

### *Section 3 – Initial notification*

11. Section 3 sets out the information the domestic abuse offender needs to supply to the police when they first make a notification and the time scales within which they are required to provide that information. Subsection (1) sets out that a domestic abuse offender has 3 days from the date of sentencing to notify the information to the police, disregarding any time where the offender is in custody, detained in hospital or outside the UK (as set out in subsection (5)).

12. Subsection (2) relates to a case where someone who is dealt with by a court in one of the ways specified in section 1(1) is, at the date of being so dealt with, already subject to the notification requirements by virtue of an earlier conviction. If, in these circumstances, at the date of being dealt with by the court, the person has complied with subsection (1) in respect of the earlier conviction, they do not need to notify their details again. This is only the case, however,

where the notification period in respect of the earlier conviction lasts throughout the period specified at subsection (1) (as extended in accordance with subsection (5) – see paragraph 15 below – if appropriate).

13. Subsection (3) lists the personal details that the domestic abuse offender is required to notify to the police. These must be notified within 3 days of conviction or, if later, sentence being imposed. The details in subsection (3) include the offender's home address. The term 'home address' is defined in subsection (6). This provides that where an offender is homeless or has no fixed abode their 'home address' means an address or location where they can be regularly found. This might, for example, be a shelter, hostel, a friend's house, a caravan or a park bench. Under subsection (3)(g) a domestic abuse offender must notify the police of the address of any other premises in the United Kingdom at which, at the time the notification is given, they regularly reside or stay. Depending on the circumstances this could be, for example, the address of a partner, a friend, a family member or a workplace. A further detail that the domestic abuse offender is required to supply under subsection (3)(h) is whether they have any passports (as defined in section 16) and the information set out in subsection (4) in relation to the passports.

14. Subsection (3)(i) includes a power for the Scottish Ministers to add other information about the offender or the offender's personal affairs to this list. For example, this would enable the Scottish Ministers to explore the possibility of including a requirement that the domestic abuse offender is required to notify the police of a change in relationship status. These regulations are subject to the affirmative procedure (see section 33(2)).<sup>7</sup>

15. In calculating the 3 day period within which an offender must give notification under subsection (1), any time when the offender meets the conditions specified in subsection (5) – for instance, any time when they are serving a sentence of imprisonment – does not count. For example, if a domestic abuse offender is convicted on 1 June 2026 and immediately imprisoned, then released on 2 June 2027, notification would need to be given to the police by 4 June 2027.

#### *Section 4 – Changes*

16. Section 4 sets out the requirements on a domestic abuse offender to notify the police of certain changes to notified details. These include, for example, a change of name or a change of home address. The change must be notified within 3 days of the change occurring. Under subsection (1)(c) an offender must notify the police within 3 days of the address of any premises they have stayed at within the UK, besides their home address, for a "qualifying period". This place might be a friend's or a relative's house or a hotel where the offender has stayed. A qualifying period is defined at subsection (6) and is a period of 7 days, or two or more periods, in any twelve months, which taken together amount to 7 days.

17. Subsection (2) allows an offender to notify the police of any change to their notified details in advance of such a change. The advance notification must give a date when the change is expected to occur.

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<sup>7</sup> Affirmative procedure means that regulations must be laid in draft before the Parliament for approval by Resolution ([see section 29 of the Interpretation and Legislative Reform \(Scotland\) Act 2010 \(legislation.gov.uk\)](#)).

18. Subsections (3) and (4) deal with the scenario in which the change does not take place as notified in advance. As long as the change takes place no earlier than 2 days before the date notified or no later than 3 days after the date notified, the offender need not update the police as to the actual date on which the change took place. However, where the change takes place outside this period, the person must notify the change in accordance with subsection (1), that is, within 3 days of the actual change. And, where the change takes place 3 days or more after the date specified, the person must also notify the police (within 6 days of the date specified) that the information they notified in advance is no longer correct. For example, if an offender notifies the police that they plan to move house on 24 March, if they end up moving on another date between 22 March and 27 March, they would not need to notify the police of the date. However, if they ended up moving earlier on 21 March they would have to notify the police of the move by the 23 March. If they moved on 28 March, they would have until 30 March to notify the police of the change of address and they would have until 29 March (6 days from 24 March) to let the police know the move did not go ahead as originally planned.

19. The effect of subsection (5) is that time when an offender is in custody, detained or abroad (as provided at subsection (5) of section 3), will be disregarded for the purpose of calculating the 3 day period specified in subsection (1) and the 6 day period specified in subsection (4)(b).

20. Under subsection (1)(g) the Scottish Ministers have the power to use regulations to prescribe other changes in circumstances which require a domestic abuse offender to make a notification. These regulations are subject to the affirmative procedure (see section 33(2)).<sup>8</sup>

#### *Section 5 – Periodic notification*

21. Section 5 provides (at subsection (1)) that a domestic abuse offender must re-notify the police of the details set out in subsection (3) of section 3 within one year after each of the specified events, unless during this period the offender re-notifies, because of a change of circumstances, under section 4.

22. The specified events are an initial notification under section 3(1), a notification of a change under section 4(1) and any notification the offender has previously given under subsection (1) (i.e. their last periodic notification).

23. This means that where a person becomes subject to the notification requirements for the first time and does not change their name or address and does not stay away from home for 7 days or more, they will have to re-notify within a year of their initial notification and annually thereafter. Where a person does notify having stayed away from home for 7 days, for example, they will have to re-notify the police of the information set out in subsection (3) of section 3 within a year of giving the notification of having stayed away from home. And if, within that year, they notify another period spent away from home, or a change of name or address, the requirement to re-notify the details set out in section 3(3) will be put back to a year after that latter notification.

24. Subsection (3) provides that where a domestic abuse offender is in custody, detention or imprisonment or abroad in the ways provided at subsection (4) at the time the periodic notification

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<sup>8</sup> See footnote 7.

requirement falls due, the person may give that notification up to 3 days after they are released from the custody, detention or imprisonment specified in subsection (4) or return to the UK.

25. In cases where, at their last notification, a domestic abuse offender notifies that they have no sole or main residence in the UK and instead provided an address or location of a place where they can be regularly found, or one such place (in accordance with section 3(6)(b)), then the Scottish Ministers have the power to specify the period after which the offender must re-notify, provided this period does not exceed one year. These regulations are subject to the affirmative procedure (see section 33(2)).<sup>9</sup>

#### *Section 6 – Method of notification and related matters*

26. Section 6 describes how and where a domestic abuse offender is required to notify their details to the police under the sections relating to initial notification, change of details and periodic notification. It provides a power for the Scottish Ministers to make regulations specifying the police stations at which the offender may notify the police of the relevant information. Where there is more than one police station the offender may notify at any of the stations. Such regulations are subject to the negative procedure (see section 33(3)).<sup>10</sup>

27. Once at the police station the offender must give the information orally to a police officer or other authorised person, who may, under subsection (4), require the offender to produce their passport for inspection.

28. Where the offender is giving advance notification of a prospective change of home address under section 4(1) or is giving notification under that section that they have resided or stayed elsewhere than at an address previously notified, subsection (2) provides that they may treat the address they are notifying as their home address for the purpose of determining which police station to give notification at.

29. Under subsection (3) any notification must be acknowledged in writing in such a form as the Scottish Ministers may direct.

#### *Section 7 – Offences relating to notification*

30. Section 7(1) provides that it is an offence if a domestic abuse offender fails to make an initial notification under section 3(1), notify a change in circumstances under section 4(1) or 4(4)(b) or make a periodic notification under section 5(1); or notifies information that they know to be false for any of these purposes. It is also an offence for the offender to fail to produce their passport under section 6(4) if requested to do so by the police when making a notification.

31. An offence will not be committed where the person has a “reasonable excuse” for failure to comply with a notification requirement or to produce their passport. This might be, for example,

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<sup>9</sup> See footnote 7.

<sup>10</sup> Negative procedure means that regulations must be laid after being made and may be annulled by resolution of the Parliament within 40 days ([see section 28 of the Interpretation and Legislative Reform \(Scotland\) Act 2010 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2010/42/section/28)).

where an offender does not provide the information in the required time scale because they are in hospital following an accident.

32. Subsection (2) sets out the penalties for committing an offence under subsection (1).

33. Under subsection (3) the offence of failing to give a notification continues throughout the period during which the required notification is not given. An offender cannot be prosecuted more than once for the same failure. However, if an offender fails to comply with a requirement, is convicted for this offence and then fails to comply again in respect of the same requirement, they commit a new offence and may be prosecuted again.

34. Subsection (4) details which courts in Scotland have jurisdiction for proceedings relating to offences under this section. It will either be a court covering the area where the accused resides, or is last known to have resided, or is found or the court that convicted the accused of the offence that resulted in them being subject to the notification requirements.

#### *Section 8 – Review of indefinite notification requirements: applicable persons*

35. Section 8 introduces the provision made for review of cases of domestic abuse offenders who are subject to the indefinite notification requirements. These are set out in sections 9 to 13 and will apply to any person who is made subject to the notification requirements for an indefinite period as a result of being sentenced to imprisonment for over 30 months for an offence involving domestic abuse (a “relevant domestic abuse offender”).

#### *Section 9 – Date of discharge and further date of discharge*

36. Section 9 sets out what the date of discharge and further date of discharge are for the purpose of sections 9 to 13. These dates determine the deadline by which a review must be carried out by the chief constable under sections 10 and 11. The date of discharge will depend on the age of the relevant domestic abuse offender on the date of conviction. It will either be 15 years (for those domestic abuse offenders who are 18 or older) or 6 years (for under 18s) after the date of conviction disregarding any time specified in subsection (2) i.e. time spent on remand, in custody, detention, imprisonment or abroad. This means that in the majority of cases the review period will commence after the relevant domestic abuse offender has been released from prison, detention in hospital etc. There is a power under section 14(a) for the Scottish Ministers to make regulations changing the 15 and 6 year review periods under this section. The regulations are subject to the affirmative procedure (see section 33(2)).

#### *Section 10 – Review procedure and grounds*

37. Section 10 sets out how the first review carried out by the chief constable of the Police Service of Scotland (as defined in section 16) will operate. The chief constable will have to decide, before the expiry of the applicable 15 or 6 year review period (or other period if amended by regulations under section 14(a)), whether a relevant domestic abuse offender should remain subject to the notification requirements. If the decision is that the relevant domestic abuse offender should cease to be subject to the notification requirements, they will cease to be subject to those requirements on the date of discharge. If the chief constable is satisfied that the relevant domestic abuse offender poses a risk of relevant harm, as defined in subsection (7), to any particular member of the public, then a notification continuation order can be made for a fixed period. A notification

continuation order will set out how long a relevant domestic abuse offender has to notify before getting a further right of review. This can be imposed for a fixed period of up to 15 years. There is power under section 14(b) for the Scottish Ministers to make regulations changing the maximum 15 year period under this section. The regulations are subject to the affirmative procedure (see section 33(2)).

38. Subsection (4) lists the factors the chief constable must take into account in deciding whether to make a notification continuation order. These include at subsection (4)(h) any assessment of the risk posed by the offender made by responsible authorities under the joint arrangements for managing and assessing risk (under section 10 of the Management of Offenders etc. (Scotland) Act 2005). Responsible authorities include the chief constable, local authorities and the Scottish Ministers. In addition to the list of factors in paragraphs (a) to (j) the chief constable must take into account any other matter which they consider to be appropriate (subsection 4(k)).

39. If a notification continuation order is made, it must include reasons (as set out at subsection (5)) and be notified to the relevant domestic abuse offender using the methods specified at subsection (6). This includes the chief constable sending a copy of the order to the offender (subsection 6(a)) or a constable serving a copy of the order on the offender (subsection 6(b)). What is involved in “sending” or “serving” a document is set out in section 26 (Service of documents) of the Interpretation and Legislative Reform (Scotland) Act 2010.

#### *Section 11 – Further review*

40. Section 11 applies in circumstances in which a notification continuation order has been made in relation to a relevant domestic abuse offender (as defined in section 8(2) and explained at paragraph 35 above). In such circumstances, the chief constable will be required to carry out a further review, before the end of the fixed period specified in the order (see section 9(3)), as to whether the relevant domestic abuse offender should remain subject to the notification requirements, and notify the offender of the decision. Section 10(2) to (7) apply to the further date of discharge, meaning that the maximum period before a further date of discharge will be 15 years, the test as to the risk of harm applied by the chief constable will be the same, as will the factors the chief constable must take into account in reaching a decision, what must be included in the further notification continuation order and how it must be notified.

#### *Section 12 – Application to a sheriff*

41. Section 12 provides that if the chief constable has not completed a review under section 10(1) or 11(1) by the required date, the relevant domestic abuse offender can make a summary application to the sheriff for an order that they are no longer subject to the notification requirements. A sheriff will consider the application and decide whether the relevant domestic abuse offender should cease to be subject to the notification requirements. The test for reaching a decision will be the same as the test which the chief constable has to apply, which is that the chief constable is satisfied, on the balance of probabilities, that the relevant domestic abuse offender poses a risk of relevant harm to any particular member of the public. The sheriff could, instead of granting the order sought, impose a notification continuation order for a period of not more than 15 years. Subsections (6) and (7) provide for the sending and service of related documents (see paragraph 39 above in relation to the meaning of these terms), including a copy of the interlocutor, which will set out the sheriff’s decision.





arrangements are known as the Multi-Agency Public Protection Arrangements (MAPPA) and ministerial guidance is provided on how the authorities responsible for assessing and managing the risk posed by certain offenders protect public safety.<sup>13</sup>

48. This amendment means those domestic abuse offenders covered by this Part, who would not otherwise have been referred to MAPPA, are now captured. For example, an offender convicted on indictment and sentenced to over 12 months imprisonment for a domestic abuse offence such as abusive behaviour towards a partner or ex-partner likely to cause psychological harm under section 1(1) of the Domestic Abuse (Scotland) Act 2018 would only be referred under the current arrangements if they were subject to other supervision requirements or had been assessed as being a person who may cause serious harm to the public at large.

#### *Section 16 – Interpretation of Part*

49. Section 16 contains the definitions of terms used in this Part of the Bill. Such terms have been explained in these Notes in relevant places.

### ***Part 2 – Assessment of offenders for rehabilitation programmes and services***

#### *Section 17 – Assessment of offenders prior to sentencing*

50. Section 17 inserts a new section 203ZA in the Criminal Procedure (Scotland) Act 1995<sup>14</sup> and will apply to those convicted of an offence on indictment involving domestic abuse (as defined in subsection (5) of the inserted section). It will also apply to those convicted in summary proceedings of such an offence but only if they have previously been convicted of such an offence, whether on indictment or in summary proceedings. This new section will require the court to obtain a pre-sentencing background report from the local authority in whose areas the offender resides setting out an assessment of the suitability of the offender for participation in a programme of appropriate rehabilitation services (as defined in subsection (5) of the inserted section). Subsection (3) provides that where a report of this kind has been provided in respect of that offender in the three months prior to conviction the court need not request a further report, but can still do so if it considers it necessary.

#### *Section 18 – Assessment of offenders while in custody*

51. Section 18 amends the Community Justice (Scotland) Act 2016<sup>15</sup> by inserting new section 34CA which deals with throughcare support for those convicted of offences involving domestic abuse (as defined in subsection (5) of the inserted section).

52. Under section 34C of the Community Justice (Scotland) Act 2016, inserted by section 13 of the Bail and Release from Custody (Scotland) Act 2023<sup>16</sup>, the Scottish Ministers must publish standards applicable to throughcare support in Scotland. “Throughcare support” is defined in section 34C(8) of the 2016 Act and includes, for example, the provision of, and facilitation of

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<sup>13</sup> Multi-Agency Public Protection Arrangements (MAPPA): national guidance (<https://www.gov.scot/publications/scottish-government-multi-agency-public-protection-arrangements-mappa-national-guidance/documents/>)

<sup>14</sup> [Criminal Procedure \(Scotland\) Act 1995 \(legislation.gov.uk\)](#)

<sup>15</sup> [Community Justice \(Scotland\) Act 2016 \(legislation.gov.uk\)](#)

<sup>16</sup> [Bail and Release from Custody \(Scotland\) Act 2023 \(legislation.gov.uk\)](#)

access to, opportunities to participate in activities designed to eliminate or reduce future offending. Under subsection (2) of section 34CA as inserted by this section of the Bill, the Scottish Ministers must ensure that those standards seek to ensure that throughcare support for those convicted of offences involving domestic abuse includes provision for appropriate rehabilitation services (as defined in subsection (4)) and an assessment of the suitability of the individual for provision of appropriate rehabilitation services. Subsection (3) provides that the standards may provide that if an assessment of this kind was carried out in respect of that offender in the six months prior to conviction the provider of throughcare support need not request a further report but can still do so if it considers it necessary.

### *Section 19 – Assessment of prisoners prior to release*

53. Section 19 inserts a new section 20A into the Prisoner and Criminal Proceedings (Scotland) Act 1993<sup>17</sup> to cover prisoners serving a sentence of imprisonment in respect of an offence involving domestic abuse (as defined in subsection (4) of the inserted section). Under subsection (2) of the inserted section, the Scottish Ministers must ensure that the rules made in respect of proceedings of the Parole Board for Scotland in relation to prisoners convicted of an offence involving domestic abuse include provision for (a) the Scottish Ministers to obtain and send to the Parole Board a report from the local authority where the prisoner resides, setting out an assessment of the suitability of the prisoner for participation in a programme of appropriate rehabilitation services; and (b) for the Parole Board to take this report into account in considering and disposing of that prisoner's case. Currently, Rule 5 and Schedule 1 of the Parole Board (Scotland) Rules 2022<sup>18</sup> make provision for the information the Scottish Ministers must send to the Parole Board, and it is expected that this report would be included as part of this information.

## ***Part 3 – Data Collection and Reporting***

### *Section 20 – Relevant personal data*

54. Section 20(1) defines “relevant personal data”. These are the categories of data to be collected for the purposes of this Part. Subsection (2) provides that the Scottish Ministers may, by regulations, amend the definition of relevant personal data, for example, by adding or removing categories. These regulations are subject to the affirmative procedure (see section 33(2)).<sup>19</sup>

### *Section 21 – Collection of relevant personal data by Police Scotland*

55. Section 21(1) places a duty on the chief constable of the Police Service of Scotland to ensure that the relevant personal data set out in section 20(1) is collected from victims of alleged offences involving domestic abuse reported to constables. Under subsection (5), constable has the meaning given in section 99(1) of the Police and Fire Reform (Scotland) Act 2012.<sup>20</sup> This data is then to be submitted to the Scottish Ministers in accordance with section 25. Subsection (3) provides the power to request the relevant personal data, however, under subsection (4), the person reporting the alleged offence may decline to provide any of their relevant personal data.

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<sup>17</sup> [Prisoner and Criminal Proceedings \(Scotland\) Act 1993 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1993/10/section/20A)

<sup>18</sup> [The Parole Board \(Scotland\) Rules 2022 \(legislation.gov.uk\)](https://legislation.gov.uk/uksi/2022/1200/section/5)

<sup>19</sup> See footnote 7.

<sup>20</sup> [Police and Fire Reform \(Scotland\) Act 2012 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2012/12/section/99)

*Section 22 – Collection of data by procurators fiscal*

56. Section 22(1) places a duty on the Lord Advocate (through the Crown Office and Procurator Fiscal Service) to ensure that the relevant personal data set out in section 20(1) is collected from victims of alleged offences involving domestic abuse reported to procurators fiscal or the Lord Advocate. This data is then to be submitted to the Scottish Ministers in accordance with section 25. Subsection (3) provides the power to request the relevant personal data, however, under subsection (4), the person reporting the alleged offence may decline to provide their relevant personal data.

*Section 23 – Collection of data by charities*

57. Section 23 applies to charities, as defined in subsection (7), which have as their purpose, or among their purposes, the provision of help or support to victims of domestic abuse. Domestic abuse is defined in subsection (7) as behaviour which could constitute the listed offences. This recognises that at the stage at which a victim is seeking help or support from a charity it might not always be clear whether an offence has been committed. Unless it would be unreasonable having regard to a person's circumstances or impracticable having regard to the charity's resources, such charities are under a duty to collect the relevant personal data set out in section 20(1) of the victims of domestic abuse to whom the charity provides help or support. This data is then to be submitted to the Scottish Ministers in accordance with section 25. Subsection (5) provides the power to request the relevant personal data, however, under subsection (6), the person receiving the help or support may decline to provide their personal data.

*Section 24 – Collection of data in relation to victims under the age of 16*

58. Section 24 provides that the Scottish Ministers may by regulations modify the application of sections 21, 22 and 23 (which all relate to data collection) for cases where the victims of domestic abuse or alleged offences involving domestic abuse are under the age of 16. This would allow the Scottish Ministers to make bespoke provision, with appropriate safeguards built in, for any data collection from those under 16. These regulations are subject to the affirmative procedure (see section 33(2)).<sup>21</sup>

*Section 25 – Submission of collected data to the Scottish Ministers*

59. Section 25(1) provides the Scottish Ministers with a regulation-making power to specify the form, manner and timing of the submission of relevant personal data by the chief constable, the Lord Advocate and charities. These regulations are subject to the affirmative procedure.<sup>22</sup> Subsection (2) provides that the relevant personal data submitted must not disclose the identity of the person to whom the data relates.

*Section 26 – Reporting of data collected*

60. Section 26 places a duty on the Scottish Ministers to prepare a report setting out the relevant data submitted to them under sections 21, 22 and 23, to lay the report before the Scottish Parliament and publish it. The first such report must be prepared, laid and published within 3 months beginning with the end of the period of one year beginning on the day on which this section comes into force. For example, if this section came into force on 1 June 2026, the Scottish Ministers

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<sup>21</sup> See footnote 7.

<sup>22</sup> See footnote 7.

would have to report by 1 September 2027. The next report would be due by 1 September 2028. Under subsection (2) it is for the Scottish Ministers to determine the form and manner of the report.

### *Section 27 – Interpretation of Part*

61. Section 27 defines certain terms used in this Part of the Bill. Such terms have been explained in these Notes in relevant places.

## ***Part 4 – School Education***

### *Section 28 – Domestic abuse education in schools*

62. Section 28 (1) requires the Scottish Ministers to promote, facilitate and support domestic abuse education in schools. Here, with reference to the relevant definitions in the Education (Scotland) Act 1980<sup>23</sup>, (“the 1980 Act”) (which definitions are applied by section 32(2)), “school” means publicly funded schools, grant-aided schools and independent schools but does not include a nursery school or a special school providing education specifically suited to the additional support needs of children or young persons.

63. Under subsection (2) education authorities must promote, facilitate and support domestic abuse education in the schools under their management. As defined in the 1980 Act, “education authorities” are councils constituted under the Local Government etc. (Scotland) Act 1994.<sup>24</sup>

64. Subsection (3) provides that a pupil may be withdrawn by their parent (which includes a guardian or carer by virtue of the 1980 Act definition) from any domestic abuse education and that in such cases the pupils is not to be placed at a disadvantage. This is similar to the option to withdraw pupils from religious subjects under section 9 of 1980 Act.

### *Section 29 – Guidance to education authorities relating to domestic abuse education*

65. Section 29(1) requires the Scottish Ministers to provide guidance to education authorities relating to domestic abuse education in schools. In turn, under subsection (3), education authorities are under a duty to have regard to this guidance. This guidance must be published, kept under review and may be revised. In preparing the guidance, the Scottish Ministers must consult charities or other bodies that provide support for those who have suffered from or are suffering from domestic abuse along with any other persons that the Scottish Ministers think appropriate. This could include, for example, education authorities, representatives of teachers and parents, and academics working in this field.

### *Section 30 – Standards relating to domestic abuse education*

66. Section 30 gives the Scottish Ministers power to make regulations to specify standards and requirements to which an education authority must conform in discharging its functions in relation to domestic abuse education in schools under its management. This is modelled on the power to prescribe standards and requirements in section 2 of the 1980 Act. These regulations may provide for exemptions from any requirement to provide or participate in domestic abuse education, for example, where it would be distressing for a pupil with direct experience of domestic abuse. The

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<sup>23</sup> [Education \(Scotland\) Act 1980 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1980/32/section/2)

<sup>24</sup> [Local Government etc. \(Scotland\) Act 1994 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/1994/39/section/1)

regulations may impose requirements to make reasonable adjustments within the meaning of the Equality Act 2010<sup>25</sup> for the purpose of ensuring young people are educated about domestic abuse. The Scottish Ministers must consult interested persons in preparing the regulations, including education authorities and domestic abuse charities. Regulations are subject to the affirmative procedure.<sup>26</sup>

#### *Section 31 – Reporting on domestic abuse education*

67. Section 31 requires the Scottish Ministers prepare a report and lay it before the Scottish Parliament on progress made in the delivery of domestic abuse education in schools. Education authorities must provide the Scottish Ministers with the information they require for the purpose of preparing this report. Whilst no specific timescale is provided for such reports, they must be done from time to time – this indicates regular reporting is expected whilst providing a degree of flexibility to the Scottish Ministers.

#### *Section 32 – Interpretation of Part*

68. Section 32 defines the terms used in this Part of the Bill including the application of defined terms from the Education (Scotland) Act 1980. Such terms have been explained in these Notes in relevant places.

### ***Part 5 – Final Provisions***

#### *Section 33 – Regulation-making powers*

69. Section 33 makes provision about the regulation-making powers given to the Scottish Ministers under the Bill. Subsection (1) provides for each regulation-making power to include the power to make various types of ancillary provision (namely, incidental, supplementary, consequential, transitional, transitory and saving provision), and to make different provision for different purpose. Subsections (2) and (3) specify the parliamentary procedure that applies to different sets of regulations and these are detailed in the relevant sections of these Notes.

70. Further information on the regulation-making powers contained in the Bill can be found in the accompanying Delegated Powers Memorandum, published at introduction.

#### *Section 34 – Ancillary provision*

71. Section 34 enables the Scottish Ministers, by regulations, to make various types of ancillary provision if they think it appropriate for the purposes of, in connection with or to give full effect to the Bill or any provision made under it.

72. Regulations under this section may modify any enactment (including the Bill itself once enacted). The word “enactment” is defined in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010<sup>27</sup> and includes Acts of the Scottish or UK Parliaments as well as secondary legislation.

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<sup>25</sup> [Equality Act 2010 \(legislation.gov.uk\)](https://legislation.gov.uk)

<sup>26</sup> See footnote 7.

<sup>27</sup> [Interpretation and Legislative Reform \(Scotland\) Act 2010 \(legislation.gov.uk\)](https://legislation.gov.uk)

73. If regulations under this section textually amend an Act then they are subject to the affirmative procedure<sup>28</sup>, but otherwise they are subject to the negative procedure<sup>29</sup>.

#### *Section 35 – Commencement*

74. Section 35 sets out when the provisions of the Bill, once enacted, will come into force (i.e. take effect). This section together with section 33, which contains provision relating to regulation-making powers under the Bill, section 34, which contains a power to make ancillary provision, and section 36, which contains the short title, will come into force automatically on the day after the Bill receives Royal Assent. The rest of the Bill provisions will come into force 2 months after the day of Royal Assent.

#### *Section 36 – Short title*

75. This section provides for the resulting Act (if the Bill is passed and given Royal Assent) to be known as the Prevention of Domestic Abuse (Scotland) Act 2025.

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<sup>28</sup> See footnote 7.

<sup>29</sup> See footnote 10.

*This document relates to the Prevention of Domestic Abuse (Scotland) Bill (SP Bill 67) as introduced in the Scottish Parliament on 7 May 2025*

# **PREVENTION OF DOMESTIC ABUSE (SCOTLAND) BILL**

## **EXPLANATORY NOTES**

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