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Criminal Justice Committee

Report on the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 [draft]

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Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

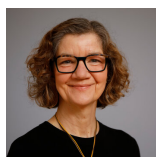


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Introduction

1. At its [meeting on 25 February 2026](#), the Criminal Justice Committee considered the following affirmative instrument:
 - [The Rehabilitation of Offenders Act 1974 \(Exclusions and Exceptions\) \(Domestic Homicide and Suicide Reviews\) \(Scotland\) Amendment Order 2026 \[draft\]](#)

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

2. The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 was laid before the Scottish Parliament on 30 January 2026 and referred to the Criminal Justice Committee.
3. The purpose of the instrument is to allow information about spent convictions and alternatives to prosecution to be shared with domestic homicide or suicide reviews when required.
4. Domestic homicide and suicide reviews aim to identify what lessons can be learned where someone has died following suspected or known domestic abuse, and information on spent convictions and alternatives to prosecution will ensure the review has a full picture of the background and circumstances prior to the death, in order to effectively undertake the review of a reviewable death.
5. The 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.
6. Article 2(2) of the Order inserts new definitions into the 2013 Order in connection with the amendments made by article 2(3) to (5).
7. The amendments made by article 2(3) to (5) of the Order provide for exclusions and exceptions from provisions of the [Rehabilitation of Offenders Act 1974](#) 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).
8. 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.
9. The 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.

Consideration by the Delegated Powers and Law Reform Committee

10. The DPLR Committee considered the instrument on 10 February 2026 and reported on it in its [17th Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Consideration by the Criminal Justice Committee

11. Motion S6M-20637 was lodged proposing that the Committee recommends approval of the instrument. The Committee took oral evidence from Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs ("the Cabinet Secretary") and Scottish Government officials at its [meeting of 25 February 2026](#).
12. During the evidence session, the Cabinet Secretary outlined the purpose of the Order to the Committee.
13. There being no questions from Members, the Cabinet Secretary moved the motion:
 - S6M-20637 —That the Criminal Justice Committee recommends that the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 [draft] be approved.
14. The motion was agreed to.
15. **The Criminal Justice Committee recommends to the Scottish Parliament that it approve the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 [draft].**

