
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 387 (C. 25)

CRIMINAL LAW

**The Domestic Abuse (Scotland) Act 2018 (Commencement
and Transitional Provision) Regulations 2018**

Made - - - - *19th December 2018*
Laid before the Scottish
Parliament - - - - *21st December 2018*
Coming into force - - *1st April 2019*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 15(2) of the Domestic Abuse (Scotland) Act 2018⁽¹⁾.

Citation and commencement

1. These Regulations may be cited as the Domestic Abuse (Scotland) Act 2018 (Commencement and Transitional Provision) Regulations 2018 and come into force on 1 April 2019.

Interpretation

- 2.—(1) In these Regulations, “the Act” means the Domestic Abuse (Scotland) Act 2018.
(2) For the purposes of these Regulations, proceedings are taken to commence when—
(a) in solemn proceedings, the indictment is served on the accused,
(b) in summary proceedings, the complaint is served on the accused.

Appointed day

3. The day appointed for the coming into force of the provisions of the Act, so far as not already in force, is 1 April 2019.

Transitional provision: domestic abuse offence

4. Sections 1 to 11 of the Act apply in respect of acts done or omissions made on or after 1 April 2019.

Transitional provision: reporting requirement

5. Section 14 of the Act applies in respect of proceedings commenced on or after 1 April 2019.

Transitional provision: bail hearings

6. Paragraphs 1 and 2 of schedule 1 of the Act apply to proceedings in respect of acts done or omissions made on or after 1 April 2019.

Transitional provision: modification of enactments

7.—(1) Paragraphs 3 to 11 of schedule 1 of the Act apply in respect of proceedings commenced on or after 1 April 2019.

(2) In any proceedings in respect of which an indictment or complaint is served on the accused before 1 April 2019, and a further indictment or complaint is served on the accused on or after that date, the amendments effected by paragraphs 3 to 11 of schedule 1 of the Act apply only in respect of charges contained in the further indictment or complaint.

St Andrew's House,
Edinburgh
19th December 2018

HUMZA YOUSAF
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring the remaining provisions of the Domestic Abuse (Scotland) Act 2018 (“the Act”) into force on 1 April 2019. The Bill for the Act received Royal Assent on 9 March 2018. Sections 13, 15 and 16 came into force the following day. The Act creates a criminal offence for a person to engage in a course of behaviour which is abusive of their partner or ex-partner.

Regulations 4 to 7 make transitional provision. Regulation 4 provides that Part 1 of the Act (the offence as to domestic abuse) will apply to acts done or omissions made on or after the coming into force date, 1 April 2019. Where the offence is committed by a course of conduct, all the conduct must have occurred on or after that date.

Regulation 5 applies to the requirement on the Scottish Ministers under section 14 of the Act to prepare a report on the use of the domestic abuse offence, and the domestic abuse aggravation (under section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016), three years after section 1(1) of the Act comes into force. This regulation ensures the reporting requirement only applies to proceedings commenced on or after the coming into force date.

Regulation 6 provides that paragraphs 1 and 2 of schedule 1 (modification of enactments) on bail in domestic abuse cases only apply to proceedings in respect of offences committed on or after the coming into force date. This confirms that the offence in respect of which bail is sought must have occurred on or after that date.

Regulation 7(1) provides that paragraphs 3 to 11 of schedule 1 only apply to cases where the indictment or complaint is served on or after 1 April 2019. Regulation 7(2) clarifies that if an indictment or complaint is re-served after that date then paragraphs 3 to 11 of schedule 1 apply, but only in respect of any charges contained in the further indictment or complaint.