

These notes refer to the Domestic Violence, Crime and Victims Act 2004 (c.28) which received Royal Assent on 15 November 2004

DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT 2004

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. In July 2002 the Government published a White Paper outlining its plans for the criminal justice system, from crime prevention through to the punishment and rehabilitation of offenders. *Justice for All* (Cm 5563) focused on reforms to court procedure and sentencing, to make trials faster and to deliver clear, consistent and appropriate sentencing. At the same time, it set out the Government's proposals to tackle domestic violence, including reform of the civil and criminal law.
4. In June 2003, the Government published a consultation paper, building on the *Justice for All* proposals. *Safety and Justice: the Government's Proposals on Domestic Violence* (Cm 5847) focused on improving the legal and other protection available to victims of domestic violence, particularly reforms to orders under the Family Law Act 1996 (non-molestation and occupation orders) and providing clarity for the police when called to domestic violence incidents.
5. The Act is intended to introduce reform to the civil and criminal law in these areas by criminalising the breach of non-molestation orders under the Family Law Act 1996; by extending the availability of restraining orders under the Protection from Harassment Act 1997; and by making common assault an arrestable offence.
6. The provisions on a new offence of causing or allowing the death of a child or vulnerable adult follow on from the Law Commission proposals in their report published in September 2003 "Children: their non-accidental death or serious injury (criminal trials)" No 282, together with their earlier Consultative Report No 279 and the report by the National Society for the Protection of Children "Which of you did it?", published in autumn 2003. These reports contain a detailed analysis of the problems encountered in the law at present. However, the new offence is designed to protect vulnerable adults as well as children and the approach taken to its formulation is also different in other ways.
7. The provisions in sections 14-16 and section 57 follow consultation on the proposals contained in "Compensation and Support to Victims of Crime" published on January 12 2004.
8. The Law Commission Report "The Effective Prosecution of Multiple Offending", Report Number 277, published in October 2002, recommended a two-stage procedure for trying cases involving sample counts whereby only the sample counts would be tried by a jury; Part 2 contains provisions which give effect to that recommendation.
9. A public consultation paper to review the Victim's Charter – which invited comments on some of the ideas now in the proposed Act – was published on 28 February 2001. The White Paper, "Justice for All", published in July 2002, previewed some of the proposed key strands (pp 48-49). This was followed by the policy leaflet "A Better Deal for Victims and Witnesses", presented to the House Library on 21 November 2002, and the publication of the first national strategy for victims and witnesses on 22 July 2003.

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10. The Bill is in 4 parts. Part 1 amends the Family Law Act 1996, creates the new offence of causing or allowing the death of a child or vulnerable adult and provides for evidentiary procedures to support it, and sets out arrangements for the establishment and conduct of domestic homicide reviews. Part 2 makes common assault an arrestable offence, makes restraining orders available on conviction or acquittal for any offence, makes provisions for a surcharge, sets out the circumstances in which part of a trial on indictment in the Crown Court may be heard by a judge sitting without a jury, and introduces provisions to improve fine enforcement. Part 3 makes provisions about victims and witnesses of crime and anti-social behaviour and provides powers to enable the Criminal Injuries Compensation Authority to recover from offenders the money it has paid out in compensation to their victims. Part 4 includes supplementary provisions