

*These notes relate to the Smoking, Health and Social Care (Scotland)  
Act 2005 (asp 13) which received Royal Assent on 5 August 2005*

# **SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### **Part 1: Smoking: Prohibition and Control**

##### ***Section 5 – Proceeding for offences under sections 1 to 3***

22. Subsection (1) links the start of the time limit for summary proceedings in pursuance of sections 1, 2 or 3 to the point at which the Crown is passed sufficient evidence on the offence to justify bringing a prosecution. This will prevent any lengthy or extended hearing processes consequential to the issuing of a fixed penalty notice under Part 1 of the Act resulting in a subsequent prosecution for that offence being time barred.
23. Subsection (2) provides that section 136(3) of the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#) applies to section 5(1) as it does to that section. Section 136(3) of the 1995 Act provides that summary proceedings are deemed to commence when a warrant is granted, if it is executed without undue delay. Subsection (3) clarifies that a certificate from the Crown as to the date that evidence came to the knowledge of the Crown is conclusive evidence of that date.