

*These notes relate to the Damages (Asbestos-related Conditions)
(Scotland) Act 2009 (asp 4) which received Royal Assent on 17 April 2009*

DAMAGES (ASBESTOS-RELATED CONDITIONS) (SCOTLAND) ACT 2009

EXPLANATORY NOTES

THE ACT

Section 3 – Limitation of actions

7. To ensure that claims do not become time-barred during the period between the date of the judgment (17 October 2007) and the date the Act comes into force, this section provides that this period does not count towards the three-year limitation period for raising an action of damages in respect of the three conditions covered in the Act. Subsection (1)(a) addresses the kinds of claims to which this section applies, that is, claims involving the asbestos-related conditions covered by sections 1 and 2. This includes claims that have been raised in the courts before the Act comes into force as well as future claims. Subsection (1)(b) provides that, where actions have been raised before the date the Act comes into force, this section will apply only if they are ongoing at that date. The effect of this section is to address cases that may be at risk of being dismissed by the courts on time-bar grounds, e.g. a person who developed pleural plaques in December 2004 and whose case could be considered time-barred by December 2007 might have delayed raising their case thinking they had no right of action under the *Johnston* judgment. The person may then have lodged their case in January 2008 because of the Government's announcement that it intended to bring this Act forward. Without this provision, which would stop the time-bar clock running from October 2007 until the date the Act comes into force, that person's claim could be dismissed as having been raised beyond the three-year limitation period.