

*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**

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## **EXPLANATORY NOTES**

### **THE ACT**

#### ***Section 4 – Commencement and retrospective effect***

8. This section sets out the provisions for commencement and retrospection. Subsection (1) provides that the substantive provisions of the Act will come into force on a date appointed by Scottish Ministers by Commencement Order. The remaining subsections explain the retrospective effect of the provisions of the Act. Subsection (2) provides that sections 1 and 2 of the Act are to be treated for all purposes as always having had effect. This is necessary in order to fully address the effect of the judgment in *Johnston*, because an authoritative statement of the law by the HoL is considered to state the law as it has always been. Subsection (3) qualifies the effect of subsection (2) by providing that sections 1 and 2 do not have effect in relation to claims settled, or legal proceedings determined, before the date the Act comes into force. The effect of subsections (2) and (3) is that pursuers in cases which had not been settled, or determined by a court, before the Act comes into force will be able to raise, or continue, an action for damages.