

*These notes relate to the Smoking Prohibition (Children in Motor Vehicles) (Scotland) Act 2016 (asp 3) which received Royal Assent on 21 January 2016*

# **SMOKING PROHIBITION (CHILDREN IN MOTOR VEHICLES) (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### *The structure of the Act*

#### *Section 4 – Interpretation*

11. **Section 4** sets out definitions of key terms used in the Act. Reading these definitions together means that “private motor vehicle” excludes motor cycles, scooters and mobility aids which are steered by means of handlebars attached to the front wheel. Public transportation vehicles (including taxis and private hire vehicles) are also excluded since smoking in them is already an offence under the Smoking, Health and Social Care (Scotland) Act 2005, which prohibits smoking in enclosed public spaces. Several of the definitions contained in section 4 (“car”, “private motor vehicle” and “public transportation vehicle”) are based on those in the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 (made under the 2005 Act). These definitions are used to define the scope of the private vehicles exemption under the 2005 Act/2006 Regulations, and are also used to determine what is a “private motor vehicle” falling within the scope of the offence under section 1 of the Act.
12. Subsection (3) allows the Scottish Ministers to alter, by regulations, certain definitions contained in subsection (1), namely “car”, “private motor vehicle” and “public transportation vehicle”. As stated above, these definitions are based on counterparts in the 2006 Regulations which are amendable by subordinate legislation. It is desirable, therefore, to provide powers for Ministers to be able to adjust the relevant definitions in this Act so that an alignment can be maintained with corresponding definitions under the 2005 Act.