

# **EMERGENCY WORKERS (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 3 – Assaulting or impeding persons assisting emergency workers***

21. Subsections (1) and (2) create a new offence of assaulting, obstructing or hindering someone assisting one of the emergency workers listed in section 1(3) or section 2(3) while that worker is responding to emergency circumstances.
22. Subsection (3) is an evidential provision which makes it clear that an offence under subsection (1) will only be committed if the accused knows, or ought to know that:
  - the person being assisted is acting in the capacity of an emergency worker (section 3(3)(a));
  - the person being assisted is involved in an emergency response (section 3(3)(b) – explained in more detail in the context of the similar provision in section 2(2)(b) at paragraph 16 above); and,
  - the person being assaulted, obstructed or hindered is assisting someone acting in the capacity of an emergency worker (section 3(3)(c)).
23. As with offences under sections 1 and 2, there will be a variety of ways in which the Crown might prove the accused's state of knowledge in relation to these elements of the offence. It will not be necessary, however, for the Crown to prove that the accused actually *knew* that his or her victim was assisting an emergency worker. It would be sufficient for the Crown to prove that the accused *ought* to have known that to be the case. Additionally, reference to the accused's actual knowledge ensures that an offence may nevertheless be committed where an accused has personal knowledge regarding the assisting role of his or her victim, which would not be obvious to a reasonable person.