

# **TOBACCO ADVERTISING AND PROMOTION ACT 2002**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 13: Enforcement***

53. This section sets out the authorities who will be responsible for enforcing the ban on tobacco advertising. In practice, this means local trading standards officers and their equivalents.
54. *Subsections (3) and (4)* provide a power for Ministers in England and Wales and Scotland and the Department of Health, Social Services and Public Safety in Northern Ireland to direct that any of the enforcement functions be taken over by them in any particular case or class of cases.
55. *Subsections (5) and (6)* provide a similar power for the Secretary of State in England and Wales or the Department of Health, Social Services and Public Safety in Northern Ireland to take over a prosecution. There is no need for this power to apply to Scotland as the Procurator Fiscal decides whether to prosecute (and then deals with any prosecution) once the enforcement authority considers that there should be a prosecution.
56. These powers are intended to ensure that a particularly important or difficult prosecution need not be lost if the enforcement authority involved felt unable to take on or continue with the case, for whatever reason.
57. *Subsection (7)* allows any magistrates in England and Wales, and Northern Ireland, to hear a case brought under this legislation. In general alleged offences will be tried locally but there may be reasons that make it necessary to try an alleged offence elsewhere. Again, there is no equivalent provision for Scotland in the light of the separation of the enforcement and prosecution functions there. An equivalent provision is also not needed for Crown Courts as their jurisdiction is not territorially limited.