

*These notes relate to the Health (Tobacco, Nicotine etc. and Care)
(Scotland) Act 2016 (asp 14) which received Royal Assent on 06 April 2016*

HEALTH (TOBACCO, NICOTINE ETC. AND CARE) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 3 — Ill-Treatment and Wilful Neglect

Offences by care workers and care providers

Section 26 – Care worker offence

102. [Section 26](#) sets out the care worker offence and the penalty for conviction. “Care worker” is defined in section 28(1) and covers care workers (employees and volunteers), their managers and supervisors, and directors or similar officers of organisations. The offence is committed where a care worker is providing care for another person and ill-treats or wilfully neglects that person. If providing that care is only incidental to the worker’s other activities (for example, where the worker is a cleaner) then such a person would not fall within the “care worker” definition (and the same principle applies in relation to care by a “care provider”) (section 28(4)). Section 26(2) provides the penalties for those convicted of the care worker offence: on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both); and, on conviction on indictment, to imprisonment for a term not exceeding five years or a fine (or both).