



# Emergency Workers (Scotland) Act 2005

## 2005 asp 2

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 22nd December 2004 and received Royal Assent on 1st February 2005**

An Act of the Scottish Parliament to make it an offence to assault or impede persons who provide emergency services; and for connected purposes

### **1 Assaulting or impeding certain providers of emergency services**

- (1) A person who assaults, obstructs or hinders another person acting in a capacity mentioned in subsection (3) below commits an offence.
- (2) No offence is committed under subsection (1) above unless the person who assaults, obstructs or hinders knows or ought to know that the person being assaulted, obstructed or hindered is acting in that capacity.
- (3) The capacity referred to in subsection (1) above is—
  - (a) that of a constable;
  - (b) that of a member of a fire brigade maintained in pursuance of the Fire Services Act 1947 (c. 41) or a person who, not being a member of such a fire brigade, is paid by a fire authority under section 3(1)(b) of that Act for rendering services and is doing so; or
  - (c) that of a person acting for the Scottish Ambulance Service Board in exercise of the function referred to in article 4(1)(a) of the Scottish Ambulance Service Board Order 1999 (S.I.1999/686) (exercise by the Board of function of providing ambulances and other means of transport for ill and other persons).

### **2 Assaulting or impeding certain emergency workers responding to emergency circumstances**

- (1) A person who assaults, obstructs or hinders another while that other person is, in a capacity mentioned in subsection (3) below, responding to emergency circumstances, commits an offence.
- (2) No offence is committed under subsection (1) above unless the person who assaults, obstructs or hinders knows or ought to know that the person being assaulted, obstructed or hindered—
  - (a) is acting in that capacity; and
  - (b) is or might be responding—

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*Status: This is the original version (as it was originally enacted).*

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- (i) to emergency circumstances; or
  - (ii) as if there were emergency circumstances.
- (3) The capacity referred to in subsection (1) above is—
  - (a) that of a prison officer, that is to say—
    - (i) a person who holds a post, otherwise than as a medical officer, to which the person has been appointed for the purposes of section 3(1A) of the Prisons (Scotland) Act 1989 (c. 45); or
    - (ii) a prisoner custody officer within the meaning of Chapter II of Part VIII of the Criminal Justice and Public Order Act 1994 (c. 33);
  - (b) that of a member of Her Majesty’s Coastguard;
  - (c) that of a member of the crew of a vessel operated by—
    - (i) the Royal National Lifeboat Institution; or
    - (ii) any other person or organisation operating a vessel for the purpose of providing a rescue service on a body of water,
 or a person who musters the crew of such a vessel or attends to its launch;
  - (d) that of a registered medical practitioner;
  - (e) that of a registered nurse;
  - (f) that of a registered midwife;
  - (g) that of a social worker, within the meaning given by section 77(1) of the Regulation of Care (Scotland) Act 2001 (asp 8), while taking action required or permitted by—
    - (i) a child protection order; or
    - (ii) an authorisation under section 61 of the Children (Scotland) Act 1995 (c. 36) (emergency protection of children where child protection order not available); or
  - (h) that of a mental health officer, that is to say—
    - (i) a mental health officer within the meaning given by section 32(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13); or
    - (ii) until section 32(1) of that Act (appointment and deemed appointment of mental health officers) comes into force, a mental health officer within the meaning given by section 125 of the Mental Health (Scotland) Act 1984 (c. 36).
- (4) For the purposes of this section and section 3 of this Act, a person is responding to emergency circumstances if the person—
  - (a) is going anywhere for the purpose of dealing with emergency circumstances occurring there; or
  - (b) is dealing with emergency circumstances or preparing to do so.
- (5) For the purposes of this Act, circumstances are “emergency” circumstances if they are present or imminent and—
  - (a) are causing or are likely to cause—
    - (i) serious injury to or the serious illness (including mental illness) of a person;
    - (ii) serious harm to the environment (including the life and health of plants and animals and the fabric of buildings); or
    - (iii) a worsening of any such injury, illness or harm; or

- (b) are likely to cause the death of a person.

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

- (1) A person who assaults, obstructs or hinders another in the circumstances described in subsection (2) below commits an offence.
- (2) Those circumstances are where the person being assaulted, obstructed or hindered is assisting another while that other person is, in a capacity mentioned in section 1(3) or 2(3) of this Act, responding to emergency circumstances.
- (3) No offence is committed under subsection (1) above unless the person who assaults, obstructs or hinders knows or ought to know—
  - (a) that the person being assisted is acting in that capacity;
  - (b) that the person being assisted is or might be responding—
    - (i) to emergency circumstances; or
    - (ii) as if there were emergency circumstances; and
  - (c) that the person being assaulted, obstructed or hindered is assisting the person acting in that capacity.

### **4 Provisions supplementary to sections 1 to 3**

- (1) A person may be convicted of the offence under section 1, 2 or 3 of this Act of obstructing or hindering notwithstanding that it is—
  - (a) effected by means other than physical means; or
  - (b) effected by action directed only at any vehicle, apparatus, equipment or other thing or any animal used or to be used by a person referred to in that section.
- (2) A person who gives false information with the intention that a person acting in a capacity mentioned in subsection (3) of section 1 of this Act will act upon that information is to be regarded, for the purposes of that section, as hindering the person acting in that capacity.
- (3) A person who gives false information with the intention that a person acting in a capacity mentioned in subsection (3) of section 2 of this Act will, while responding to emergency circumstances or instead of doing so, act upon that information is to be regarded, for the purposes of that section, as hindering the person acting in that capacity.
- (4) Subsections (2) and (3) above do not prejudice the generality of subsection (1)(a) above.
- (5) For the purposes of sections 2 and 3 of this Act, circumstances to which a person is responding are to be taken to be emergency circumstances if the person believes and has reasonable grounds for believing they are or may be emergency circumstances.
- (6) Evidence from a single source is sufficient evidence to establish, for the purposes of section 1, 2 or 3 of this Act, whether a person is acting in a capacity referred to in that section.

## **5 Assaulting or impeding health workers in hospital premises**

- (1) A person who, in a hospital or on land adjacent to and used wholly or mainly for the purposes of a hospital, assaults, obstructs or hinders a person acting in a capacity mentioned in subsection (3) below or a person assisting such a person commits an offence.
- (2) No offence is committed under subsection (1) above unless the person who assaults, obstructs or hinders knows or ought to know that the person being assaulted, obstructed or hindered is acting in that capacity or, as the case may be, that the person being assisted is acting in that capacity and that the person being assaulted, obstructed or hindered is assisting the person acting in that capacity.
- (3) The capacity referred to in subsection (1) above is—
  - (a) that of a registered medical practitioner;
  - (b) that of a registered nurse;
  - (c) that of a registered midwife; or
  - (d) that of a person acting for the Scottish Ambulance Service Board in the exercise of the function referred to in article 4(1)(a) of the Scottish Ambulance Service Board Order 1999 (S.I. 1999/686) (exercise by the Board of function of providing ambulances and other means of transport for ill and other persons).
- (4) A person may be convicted of the offence under subsection (1) above of obstructing or hindering notwithstanding that it is—
  - (a) effected by means other than physical means;
  - (b) effected by action directed only at any vehicle, apparatus, equipment or other thing used or to be used by a person referred to in that subsection.
- (5) Evidence from a single source is sufficient to establish, for the purposes of subsection (1) above, whether a person is acting in a capacity referred to in subsection (3) above.

## **6 Penalties**

A person guilty of an offence under this Act is liable, on summary conviction, to imprisonment for a period not exceeding 9 months or to a fine not exceeding level 5 on the standard scale or to both.

## **7 Saving for certain other offences**

Nothing in this Act affects section 41(1) of the Police (Scotland) Act 1967 (c. 77) (assault etc. of constable in execution of duty or of person assisting a constable) or section 30 of the Fire Services Act 1947 (c. 41) (obstruction etc. of member of fire brigade engaged in fire-fighting operation).

## **8 Power to modify**

- (1) The Scottish Ministers may by order modify this Act by—
  - (a) adding a person or description of person to; or
  - (b) removing a person or description of person from,

section 1(3), 2(3) or 5(3) of this Act and by making such provision connected with that modification as they think fit.

- (2) The Scottish Ministers shall not make an order under subsection (1)(a) above unless it appears to them that the person to be added (or, as the case may be, each person of the description to be added) is one whose functions or activities are such that the person is likely, in the course of them, to have to deal with emergency circumstances.
- (3) An order under subsection (1) above is to be made by statutory instrument.
- (4) No such order shall be made unless a draft of it has been laid before and approved by a resolution of the Scottish Parliament.

## **9 Short title and commencement**

- (1) This Act may be cited as the Emergency Workers (Scotland) Act 2005.
- (2) This Act (except this section) comes into force on such day as the Scottish Ministers may, by order made by statutory instrument, appoint and different days may be so appointed for different purposes.
- (3) An order under subsection (2) above may contain such transitional, transitory and saving provision as the Scottish Ministers think appropriate.