

SCOTTISH COMMISSION FOR HUMAN RIGHTS ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 11: Places of detention – powers of entry, inspection and interview

42. This section empowers the Commission to enter places of detention during the conduct of an inquiry. In terms of this Act, ‘places of detention’ means any premises, vehicle or other place where a person can be detained on the authority or consent of a Scottish public authority. Subsection (3) clarifies this point by defining a person as being detained in a place “if he or she is imprisoned there or otherwise deprived (to any extent) of his or her liberty to leave the place”.
43. Specifically, subsection (1) empowers the Commission to inspect such places of detention and to conduct private interviews with any person detained there, subject to that person’s consent. Subsection (4) states that an interview is “in private” if it is conducted outwith the hearing of anyone involved in the management or control of, or working at, the place of detention. Schedule 3 makes further provision in relation to these powers.