

# **CHILDREN'S HEARINGS (SCOTLAND) ACT 2011**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 10 – Proceedings before Sheriff**

##### **Application to establish grounds**

##### ***Section 103 – Child's duty to attend hearing unless excused***

154. This section requires a child to appear before the sheriff for the hearing to establish grounds for referral. Subsections (2) and (3) provide for the sheriff to release the child from the obligation to attend the hearing: where the child has been the victim of a schedule 1 offence, has (or is likely to have) a close connection with a person who has committed such an offence, is (or is likely to become) a member of the same household as a child who is a victim of such an offence, or has (or is likely to have) a close connection with a person who has committed an offence under Parts 1, 4, or 5 of the Sexual Offences (Scotland) Act 2009 and the sheriff considers that the child's attendance is not necessary to ensure a fair hearing; where the sheriff considers that attending the court hearing would put the child's physical, moral or mental welfare at risk; or where taking account of the child's age and maturity, the child would be incapable of understanding the hearing or that part of the hearing.
155. Subsection (4) provides that the child may attend the hearing even where he or she has been excused from the obligation to do so. Subsection (5) provides for the sheriff to grant a warrant to secure attendance of the child at the hearing, if the child has failed to attend the hearing, without being excused from attending. Subsections (6) and (7) provide that where a proof hearing needs to be continued, for example to another day, the sheriff has the power to grant a further warrant to secure the attendance of the child if there is reason to believe that the child may not attend the continued hearing.