

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

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 5 – Child Assessment and Child Protection Orders**

##### **Child assessment orders**

##### *Section 35 – Child assessment orders*

37. Sections 35 and 36 provide for the local authority to apply to the sheriff for a “child assessment order”. It provides for an assessment to be made of a child’s health or development or of the way in which she or he has been or is being treated or neglected even in the absence of consent by the parent. Nothing in this section affects the child’s legal capacity to consent or refuse treatment, as made clear in section 186 of the Act. Subsection (3)(b) provides for the child to be removed to and kept at the place where the assessment is to be carried out. Subsection (5) sets a maximum duration for the child assessment order of three days.

##### *Section 36 – Consideration by sheriff*

38. This section relates to circumstances where a local authority has applied to the sheriff for a child assessment order. Subsection (2) sets out what the sheriff must be satisfied of before making the child assessment order. Subsection (3) enables the sheriff to make a child protection order instead of a child assessment order if the conditions in section 38(2) are satisfied.