

# **VULNERABLE WITNESSES (SCOTLAND) ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2 – Civil Proceedings**

##### ***Section 11 – Interpretation of this Part***

64. This section defines a vulnerable witness in any civil proceedings as being:
- a child (i.e. a person under the age of 16 at the commencement of proceedings); or
  - an adult witness the quality of whose evidence (as defined in subsection (4)) may be diminished either as a result of a mental disorder (as defined by section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003), or due to fear or distress of the witness associated with giving their evidence.
65. Subsection (2) sets out a range of factors which must be taken into account by the court when it determines whether an adult witness is vulnerable. The court may also take into account any other factors not listed in subsection (2) but which appear to be relevant.
66. Subsection (5) defines civil proceedings to include referrals from children’s hearings. This definition excludes proceedings before a tribunal of inquiry, arbitration proceedings, and other proceedings not in any of the ordinary courts of law.