

*These notes relate to the Children's Hearings (Scotland) Act
2011 (asp 1) which received Royal Assent on 6 January 2011*

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – General Considerations

General considerations

Section 26 – Decisions inconsistent with section 25

28. *Section 26(1)* is based on section 16(5) of the 1995 Act and provides that a decision can be made which is inconsistent with the welfare of the child requirement in section 25, if the Children's Hearing or court considers this departure from that principle necessary to protect the public from serious harm. Subsection (2) provides that, in keeping with the United Nations Convention on the Rights of the Child, when making such a decision the welfare of the child must still be treated as a primary consideration, rather than as the paramount consideration.