

*These notes relate to the Commissioner for Children and Young People
(Scotland) Act 2003 (asp 17) which received Royal Assent on 1 May 2003*

COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 15: Protection from actions of defamation

66. Subsection (1)(a) provides the Commissioner and staff with absolute privilege for all reports, statements and communications related to conducting investigations under the Act. The provision of absolute privilege effectively places a bar on a person's right to pursue an action of defamation in respect of statements made by the Commissioner. This allows the Commissioner to carry out investigations without being fettered in relation to the repetition of any defamatory material received. Subsection (1)(b) gives the Commissioner and staff qualified privilege for statements made in pursuance of all other purposes of the Act.
67. Subsection (1)(c) provides individuals who make statements to the Commissioner or the Commissioner's staff with qualified privilege. Under qualified privilege individuals can make statements and can assist in investigations without fear of an action for defamation provided statements are not motivated by malice or intent to injure. "Statement" has the same meaning as in the [Defamation Act 1996 \(c.31\)](#) and therefore includes words, pictures, visual images, gestures or any other method of signifying meaning.