

# CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – the National Convener and Children's Hearings Scotland (Chs)**

#### **Children's hearings**

##### ***Section 5 – Children's hearing***

7. **Section 5** defines a Children's Hearing as one that consists of three members of the Children's Panel. Children's Hearings are to carry out the functions conferred on them by this Act or any other enactment.

##### ***Section 6 – Selection of members of children's hearing***

8. **Section 6** makes provision for the selection of panel members to sit on a Children's Hearing. The National Convener has a duty to ensure that a hearing consists of both male and female members of the panel and, wherever possible, they either work or live in the local authority area in which the hearing will sit. While the duty to ensure a gender balance is firm, there is a limited degree of flexibility that allows members of a Children's Hearing to be drawn from a wider geographical area than the immediate local authority in which the hearing will be held. Subsection (4) provides that the National Convener may select one of the three members to act as chairing member in that hearing. Schedule 1, paragraph 14 places an obligation on the National Convener to delegate this function to the area support teams, defined in schedule 1.

##### ***Section 7 – Holding of children's hearing***

9. This section places a duty on the National Convener to ensure that hearings are held where required in order to carry out functions under this Act or other legislation.

##### ***Section 8 – Provision of advice to children's hearing***

10. This section provides the National Convener with the power to provide advice to Children's Hearings and Pre-hearing Panels. Subsection (2) contains a non-exhaustive list of the types of advice which the National Convener might provide to Children's Hearings and Pre-hearing Panels. This includes legal advice, procedural advice, advice about the consequences of decisions and advice about the implementation of decisions.

##### ***Section 9 – Independence of children's hearing***

11. This section serves to protect the independence of the Children's Hearing. It makes clear that neither the National Convener nor the Principal Reporter can guide or direct the Children's Hearing in carrying out any of its functions.