

CHILDREN'S HEARINGS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Attendance at Children's Hearing

Section 73 – Child's duty to attend children's hearing

98. This section places an obligation on the child to attend a Children's Hearing unless excused under subsection (3) or the rules under section 177. The hearing has a general power to excuse a child from a Children's Hearing either which has been or is to be arranged, where the hearing is satisfied that the circumstances set out in subsection (3) apply. Subsection (3)(a) provides for the hearing to excuse the child where the child has been the victim of a schedule 1 offence, has (or is likely to have) a close connection with a person who has committed a schedule 1 offence, is (or is likely to become) a member of the same household as a child who is a victim of such an offence, or has (or is likely to have) a close connection with a person who has committed an offence under Parts 1, 4, or 5 of the Sexual Offences (Scotland) Act 2009 and the attendance of the child at the hearing or that part of the hearing is not necessary for a fair hearing.
99. Subsection (3)(b) provides for the hearing to excuse the child where attendance may be damaging to the child's physical, mental or moral welfare. Subsection (3)(c) provides for the hearing to excuse the child where the hearing considers the child would not be able to understand the process. Subsection (4) provides for when the Children's Hearing may excuse a child from a child's obligation to attend a grounds hearing. Acceptance or denial of ground(s) by a child is a fundamental part of the hearing and a child may only be excused from this part of the hearing where the hearing considers that the child is not capable of understanding the explanation.