



# United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 2024 asp 1

## PART 3

### CHILDREN'S RIGHTS SCHEME, CHILD RIGHTS AND WELLBEING IMPACT ASSESSMENTS AND REPORTING DUTIES

PROSPECTIVE

#### *Children's Rights Scheme*

#### **14 Children's Rights Scheme**

- (1) The Scottish Ministers must make a scheme setting out the arrangements that are in place, or are to be put in place by the Scottish Ministers—
  - (a) to ensure that they comply with the duty under [section 6\(1\)](#), and
  - (b) to secure better or further effect of the rights of children.
- (2) The scheme under [subsection \(1\)](#) is to be known as the Children's Rights Scheme (and is referred to in this Act as "the Scheme").
- (3) The Scheme must, in particular, include arrangements for the Scottish Ministers to—
  - (a) ensure that children are able to participate in the making of decisions that affect them with access to such support and representation (for example from children's advocacy services) as they require to do so,
  - (b) identify and address any situation where a child's rights are (or are at a significant risk of) not being fulfilled,
  - (c) raise awareness of and promote the rights of children,
  - (d) promote complaints handling procedures that children can understand and use,
  - (e) ensure that children have effective access to justice,

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- (f) protect the rights of children in relation to their interactions with persons, other than public authorities, who provide services which affect children,
  - (g) consider the rights of children in the Scottish Government’s budget process,
  - (h) ensure that their actions contribute to any national outcome for children determined by them under Part 1 of the Community Empowerment (Scotland) Act 2015,
  - (i) prepare and publish child rights and wellbeing impact assessments (see [section 17](#)),
  - (j) use, and promote the use of, inclusive ways of communicating that ensure that children are able to receive information and express themselves in ways that best meet their needs (in relation to speech, language or otherwise).
- (4) The first Scheme made under [this section](#) must—
- (a) specify the date by which the first report on its operation is to be published and laid before the Scottish Parliament under [section 16](#), and
  - (b) include any actions that the Scottish Ministers are to take in respect of the Scheme during the period beginning with the date on which the Scheme is made and ending on the date that the first report on its operation is to be published.
- (5) The Scottish Ministers may amend the Scheme or make a new scheme to replace it at any time (and references in this Act to the Scheme include the Scheme as amended or replaced).
- (6) [Section 15](#) sets out the procedure that the Scottish Ministers must follow to make, amend or remake the Scheme.
- (7) In [this Part](#), “children” means persons under the age of 18.

#### Commencement Information

- II** S. 14 comes into force in accordance with s. 47(2)

## 15 Procedure for making, amending and remaking the Scheme

- (1) In [this section](#), a reference to the proposal is a reference to (as the case may be) a proposal to—
- (a) make the first scheme under [section 14\(1\)](#),
  - (b) amend the Scheme, or
  - (c) make a new scheme to replace the Scheme.
- (2) In preparing the proposal, the Scottish Ministers—
- (a) must have regard to—
    - (i) any report of the United Nations Committee on the Rights of the Child under paragraph 5 of article 44 of the Convention that the Scottish Ministers consider to be relevant, and
    - (ii) any other reports, suggestions, general recommendations or other documents issued by the United Nations Committee on the Rights of the Child relating to the implementation of the Convention, the first optional protocol or the second optional protocol by the United Kingdom that the Scottish Ministers consider to be relevant,

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- (b) may have regard to any international law or comparative law that they consider to be relevant, and
  - (c) may have regard to any other document or matter that they consider to be relevant.
- (3) The Scottish Ministers must publish the proposal and consult—
- (a) children,
  - (b) the Commissioner for Children and Young People in Scotland,
  - (c) the Scottish Commission for Human Rights, and
  - (d) such other persons as the Scottish Ministers consider appropriate.
- (4) The Scottish Ministers may make such changes to the proposal as they consider appropriate following the consultation under [subsection \(3\)](#).
- (5) The Scottish Ministers may not—
- (a) make the Scheme,
  - (b) make an amendment to the Scheme, or
  - (c) make a new scheme to replace the Scheme,
- until the proposal has been laid before the Scottish Parliament.
- (6) A proposal may not be laid before the Scottish Parliament under [subsection \(5\)](#) unless a period of at least 28 days, beginning with the day on which the proposal was published under [subsection \(3\)](#), has elapsed.
- (7) The Scottish Ministers must publish the Scheme, the Scheme as amended or (as the case may be) the Scheme as remade in such manner as they consider appropriate.
- (8) It is immaterial that anything done by way of preparation of, or consultation in relation to, the first scheme under [this section](#) was done—
- (a) before the Bill for this Act was passed, or
  - (b) after that but before [this section](#) comes into force.

#### Commencement Information

**I2** S. 15 comes into force in accordance with s. 47(2)

## 16 Reviewing and reporting on the Scheme

- (1) The Scottish Ministers must, as soon as practicable after the end of each reporting period—
- (a) review the Scheme and its operation, and
  - (b) publish a report of their findings.
- (2) In reviewing the Scheme, the Scottish Ministers—
- (a) must take into account the following things if they have occurred in the reporting period—
    - (i) the Committee making a suggestion or general recommendation under article 45(d) of the Convention based on a report submitted by the United Kingdom under paragraph 1(b) of article 44 of the Convention,

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- (ii) an amendment to the Convention or to an optional protocol to the Convention entering into force,
  - (iii) the Committee making a General Comment,
  - (iv) the Committee adopting views and findings under the third optional protocol,
  - (v) the Committee making recommendations following days of general discussion,
  - (vi) the United Kingdom ratifying a protocol to the Convention,
  - (vii) a court making a strike down declarator or an incompatibility declarator, and
- (b) may take into account any international law or comparative law that they consider to be relevant,
  - (c) may take into account any other document or matter that they consider to be relevant.
- (3) A report under [subsection \(1\)](#) must include—
- (a) a summary of the actions taken by the Scottish Ministers for the purpose of—
    - (i) ensuring compliance with the duty under [section 6\(1\)](#) during the reporting period, and
    - (ii) securing better or further effect of the rights of children,
  - (b) a statement as to whether or not they intend to amend the Scheme or make a new scheme to replace it in light of the findings of their review, and
  - (c) a summary of any actions that they intend to take in the next reporting period.
- (4) A report under [subsection \(1\)](#) may include such other material as the Scottish Ministers consider appropriate, whether relating to the operation of the Scheme or to the rights of children generally.
- (5) Before publishing a report under [this section](#), the Scottish Ministers must consult the following in relation to the action to be taken in pursuance of [subsection \(3\)\(c\)](#)—
- (a) children,
  - (b) the Commissioner for Children and Young People in Scotland,
  - (c) the Scottish Commission for Human Rights, and
  - (d) such other persons as the Scottish Ministers consider appropriate.
- (6) Each report published under [this section](#) must be—
- (a) accompanied by a version of the report that children can understand,
  - (b) published in such manner as the Scottish Ministers consider appropriate,
  - (c) laid before the Scottish Parliament as soon as practicable after it is published.
- (7) In [this section](#)—
- “General Comment” means a comment prepared by the Committee under rule 77 of its rules of procedure,
- “recommendations following days of general discussion” means recommendations made by the Committee following days of general discussion under rule 79 of its rules of procedure,
- “reporting period” means—
- (a) the period beginning with the date on which the Scheme is made and ending on the date specified for such a report in the Scheme (see [section 14\(4\)](#)), and

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- (b) each subsequent period of a year,
- “the Committee” means the United Nations Committee on the Rights of the Child,
- “views and findings under the third optional protocol” means—
- (a) views adopted by the Committee under article 10, paragraph 5 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, and
  - (b) findings, comments and recommendations adopted by the Committee under article 13, paragraph 4 of that Protocol.

#### **Commencement Information**

**I3** S. 16 comes into force in accordance with s. 47(2)

**Status:**

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**Changes to legislation:**

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