

CHILDREN AND YOUNG PEOPLE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Rights of Children

Section 1 – Duties of Scottish Ministers in relation to the rights of children

4. **Section 1** places duties on the Scottish Ministers in relation to the rights of children as set out in the UNCRC and its First and Second Optional Protocols.
5. Subsection (1)(a) places a duty on the Scottish Ministers to keep under consideration whether there are any steps which they could take to give better or further effect to the UNCRC requirements. In effect, this means a requirement on the Scottish Ministers to keep under review their approach to implementation of the UNCRC in the exercise of their functions. Subsection (1)(b) requires the Scottish Ministers to take steps which they believe to be appropriate in consequence of that consideration. Subsection (2) provides that when complying with their duty under subsection 1(a) the Scottish Ministers must take such account as they consider appropriate of any relevant views of children of which they are aware. There is no obligation on Scottish Ministers to actively obtain these views.
6. Subsection (3) places a duty on the Scottish Ministers to promote public awareness and understanding of the rights of children. The term “rights of children” has a different definition to the term “UNCRC requirements” for these purposes. An interpretation of both terms is included at section 4. This provision reflects the purpose behind Article 42 of the UNCRC and introduces into Scots law a new domestic requirement on the Scottish Ministers to raise awareness and understanding of the UNCRC amongst children, those individuals working with children and members of the public. This could involve, for example, targeted work within schools, the development of information materials, the preparation of guidance for professionals and the provision of support to other organisations who have a role in promoting children’s rights in Scotland.
7. Subsection (4) requires the Scottish Ministers to lay a report before the Scottish Parliament every 3 years detailing the steps they have taken in the 3 year period just ended to give better or further effect to the UNCRC requirements and to promote public awareness and understanding of the rights of children. The report must also include details of the steps that the Scottish Ministers intend to take in the current 3 year period in pursuance of those same aims. Subsection (5) places a duty on Scottish Ministers to take appropriate steps to obtain the views of children on what their plans for the 3 year period now starting should be.
8. Subsection (6) defines what is meant by “3 year period”. This is the period of 3 years beginning with the day the section comes into force and each period of 3 years thereafter.

*These notes relate to the Children and Young People (Scotland)
Act 2014 (asp 8) which received Royal Assent on 27 March 2014*

9. Subsection (7) requires the Scottish Ministers to publish the report they have laid before the Scottish Parliament as soon as practicable.

Section 2 – Duties of public authorities in relation to the UNCRC

10. Subsection (1) requires each identified public authority, as listed, or within a description listed, in schedule 1, to publish (in any way they think is appropriate) a report every 3 years setting out the steps it has taken in the 3 year period just ended to give better or further effect within its areas of responsibility to the UNCRC requirements. The public authority may choose to satisfy the duty through, for example, annual reports. The public authority can also satisfy the duty through preparation of a specific report prepared for the purpose of fulfilling this duty, should it choose.
11. Subsection (3) makes clear that two or more of the public authorities to whom the duty applies may satisfy the duty through preparation and publication of a joint report.