

*Status: This version of this provision is prospective.*

*Changes to legislation: United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, Section 7 is up to date with all changes known to be in force on or before 01 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



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

2024 asp 1

## PART 2

### DUTIES ON PUBLIC AUTHORITIES

#### *Remedies for unlawful acts*

PROSPECTIVE

#### **7 Proceedings for unlawful acts**

- (1) A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may—
  - (a) bring proceedings against the authority under this Act in any civil court or tribunal which has jurisdiction to grant the remedy sought, or
  - (b) rely on the UNCRC requirements concerned in any legal proceedings.
- (2) In subsection (1)(a), proceedings against an authority include a counterclaim or similar proceeding.
- (3) In subsection (1)(b), “legal proceedings” includes—
  - (a) proceedings brought by or at the instigation of a public authority, and
  - (b) an appeal against the decision of a court or tribunal.
- (4) Subsection (1) does not apply to an act which took place before this section comes into force but paragraph (b) of that subsection applies to proceedings brought by or at the instigation of a public authority whenever the act took place.
- (5) The Scottish Ministers must, if they consider it necessary to ensure that a particular tribunal can provide an appropriate remedy in relation to an act (or proposed act) of

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a public authority which is (or would be) unlawful as a result of section 6(1), bring forward regulations to add to—

- (a) the relief or remedies which the tribunal may grant,
- (b) the grounds on which it may grant any of them, or
- (c) the orders it may make.

(6) In subsection (5), “bring forward regulations” means lay before the Scottish Parliament for approval a draft of a Scottish statutory instrument containing regulations to make the provision they consider necessary.

(7) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (5) before the Scottish Parliament, the Scottish Ministers must consult—

- (a) the Commissioner for Children and Young People in Scotland,
- (b) the Scottish Commission for Human Rights, and
- (c) such other persons as they consider appropriate.

(8) Regulations under subsection (5) are subject to the affirmative procedure.

(9) Proceedings under subsection (1)(a) must be brought before the end of the period of 1 year beginning with the day on which the act complained of took place.

(10) But subsection (9) is subject to any rule in relation to any procedure which imposes a stricter time limit in relation to that procedure.

(11) In calculating the period of 1 year in subsection (9), any time during which the person by or on whose behalf the proceedings are brought was under the age of 18 is to be disregarded.

(12) Where a person would be entitled, but for subsection (9), to bring proceedings under subsection (1)(a), the court or tribunal may, if it considers it equitable to do so, allow the person to bring the action despite subsection (9).

(13) In section 27A of the Court of Session Act 1988 (time limits), after subsection (1) add—

“(1A) To the extent that an application to the supervisory jurisdiction of the Court is in respect of proceedings under section 7(1)(a) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, in calculating the period of 3 months in subsection (1)(a), any time during which the person by or on whose behalf the application was made was under the age of 18 is to be disregarded.”.

#### Commencement Information

**II** S. 7 comes into force in accordance with s. 47(2)

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**Changes and effects yet to be applied to :**

- s. 7 coming into force by [2024 asp 1 s. 47\(2\)](#)