



# 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

#### *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,
  - (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.

## **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,
  - (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,

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- (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.

## 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,
    - (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
  - (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.

### *Child rights and wellbeing impact assessments*

#### **17 Child rights and wellbeing impact assessments**

- (1) A child rights and wellbeing impact assessment is an assessment of the likely effects (if any) of a legislative provision on, or decision of a strategic nature relating to, the rights and wellbeing of children.
- (2) The Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to the following legislative provisions—
  - (a) a Bill for an Act of the Scottish Parliament that the Scottish Ministers intend to introduce in the Scottish Parliament,
  - (b) a Scottish statutory instrument made by the Scottish Ministers other than one which brings a provision of an Act of the Scottish Parliament or an Act of Parliament into force.
- (3) The Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to decisions of a strategic nature relating to the rights and wellbeing of children as required by, and in accordance with, the arrangements set out in the Scheme.
- (4) Without prejudice to the generality of [subsection \(3\)](#), the Scottish Ministers must prepare and publish a child rights and wellbeing impact assessment in relation to—
  - (a) any decision by the Scottish Ministers to restrict, for a reason relating to coronavirus, the delivery in person of education provision to children at schools,
  - (b) any strategy, policy or criteria of the Scottish Ministers that is to be applied by an education authority in making a decision temporarily to remove or restrict the delivery in person of education provision to children at schools under the education authority’s management, regardless of the reason for the decision.
- (5) For the purposes of [subsection \(4\)](#)—

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),

a reference to the “delivery in person” of education is a reference to a child’s attendance in person at the child’s usual school,

“school” has the meaning given by section 135(1) of the Education (Scotland) Act 1980.

### *Reporting duty of listed authorities*

#### **18 Reporting duty of listed authorities**

- (1) A listed authority must, as soon as practicable after the end of each reporting period, publish a report on—
  - (a) the actions it has taken during the period—
    - (i) for the purpose of ensuring compliance with the duty under [section 6\(1\)](#), and
    - (ii) to secure better or further effect of the rights of children, and
  - (b) the actions that it intends to take during the next reporting period—

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- (i) for the purpose of ensuring compliance with the duty under [section 6\(1\)](#), and
  - (ii) to secure better or further effect of the rights of children.
- (2) Two or more listed authorities may satisfy [subsection \(1\)](#) by publishing a report prepared by them jointly.
  - (3) Reports under [this section](#) must be published in such manner as the listed authority (or authorities) considers appropriate.
  - (4) A report published under this section must be accompanied by a version of the report that children can understand.
  - (5) A listed authority (or, where two or more authorities have prepared a report jointly, either or any of them) must, as soon as practicable after publishing a report under this section, send a copy of it to the Scottish Ministers.
  - (6) In [this section](#)—
    - “listed authority” means an authority listed in [section 19](#),
    - “reporting period” means—
      - (a) the period beginning with the day on which this section comes into force and ending on 31 March 2026, and
      - (b) each subsequent period of 3 years.

## 19 Listed authorities

- (1) For the purposes of [section 18\(1\)](#), the listed authorities are—
  - (a) a local authority,
  - (b) Children’s Hearings Scotland,
  - (c) the Scottish Children’s Reporter Administration,
  - (d) a health board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
  - (e) a special health board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978,
  - (f) Healthcare Improvement Scotland,
  - (g) the Scottish Qualifications Authority,
  - (h) the Skills Development Scotland Co. Limited (registered number SC202659),
  - (i) Social Care and Social Work Improvement Scotland,
  - (j) the Scottish Social Services Council,
  - (k) the Scottish Sports Council,
  - (l) the chief constable of the Police Service of Scotland,
  - (m) the Scottish Police Authority,
  - (n) the Scottish Fire and Rescue Service,
  - (o) the Scottish Legal Aid Board,
  - (p) the Scottish Courts and Tribunals Service,
  - (q) the Mental Welfare Commission for Scotland,
  - (r) the Scottish Housing Regulator,
  - (s) Bòrd na Gàidhlig,
  - (t) Creative Scotland,

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- (u) an integration joint board to which functions in relation to persons under the age of 18 are delegated in pursuance of an integration scheme prepared under section 1 or 2 of the Public Bodies (Joint Working) (Scotland) Act 2014,
  - (v) ILF Scotland.
- (2) The Scottish Ministers may by regulations modify [subsection \(1\)](#) by—
- (a) adding a public authority or a description of public authorities as a listed authority (or authorities),
  - (b) removing a listed authority (or authorities), or
  - (c) amending an entry for a listed authority (or authorities).
- (3) Regulations under [subsection \(2\)](#) are subject to the affirmative procedure.
- (4) Before laying a draft of a Scottish statutory instrument containing regulations under [subsection \(2\)\(a\)](#) or [\(b\)](#) before the Scottish Parliament, the Scottish Ministers must consult—
- (a) the public authority concerned or (as the case may be) the public authorities falling within the description of public authorities concerned, and
  - (b) such other persons as they consider appropriate.

## 20 Guidance on [section 18](#)

- (1) The Scottish Ministers must issue guidance about the carrying out of listed authorities’ functions under [section 18](#).
- (2) Before issuing guidance under [subsection \(1\)](#), the Scottish Ministers must 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.
- (3) The Scottish Ministers must, as soon as practicable after issuing guidance under [subsection \(1\)](#), publish the guidance in such manner as they consider appropriate.
- (4) The Scottish Ministers must from time to time review guidance issued under [subsection \(1\)](#) and may revise the guidance.
- (5) References in [subsections \(2\) to \(4\)](#) to guidance include references to revised guidance.

### *Reporting duty of the Scottish Parliament*

## 21 Reporting duty of the Scottish Parliament

- (1) The Scottish Parliamentary Corporate Body must publish a report about the matters set out in [subsection \(2\)](#).
- (2) Those matters are—
- (a) the actions taken by the Parliament and its committees to secure better or further effect of the rights of children during the period covered by the report,
  - (b) the actions they intend to take to secure better or further effect of the rights of children during the next period.

- (3) The first report under this section is to be published no later than 12 months after the day on which this section comes into force.
- (4) The second and subsequent reports under this section are to be published no later than 12 months after the publication of the previous report.
- (5) Reports under this section are to be—
  - (a) published in such manner as the Scottish Parliamentary Corporate Body considers appropriate, and
  - (b) accompanied by a version of the report that children can understand.

*Consequential amendments*

**22 Consequential amendments of Children and Young People (Scotland) Act 2014**

- (1) The Children and Young People (Scotland) Act 2014 is amended as follows.
- (2) Part 1 (rights of children) and schedule 1 are repealed.
- (3) In section 99(2) (subordinate legislation), the words “section 3(2)” are repealed.