

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

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 41  
Long Title

Schedule

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 3

#### John Swinney

- 1 In section 3, page 3, line 20, leave out <draft> and insert <a draft of a Scottish statutory instrument containing>

#### John Swinney

- 2 In section 3, page 3, line 20, leave out <for approval>

#### Ruth Maguire

- 36 In section 3, page 3, line 21, leave out <such> and insert <—  
( ) the Commissioner for Children and Young People in Scotland,  
( ) the Scottish Commission for Human Rights, and  
( ) such other>

### Section 4

#### John Swinney

- 3 In section 4, page 3, line 26, leave out <must> and insert <may>

#### John Swinney

- 4 In section 4, page 3, leave out lines 38 and 39 and insert—  
<( ) other international law and comparative law.>

#### John Swinney

- 5 In section 4, page 4, line 18, leave out subsection (5)

## Section 6

### John Swinney

- 6 In section 6, page 5, line 7, leave out <an “act” includes a failure> and insert <“act” includes fail>

### John Swinney

- 7 In section 6, page 5, leave out line 14

### John Swinney

- 8 In section 6, page 5, line 19, leave out from <, and> to end of line 21

### John Swinney

- 9 In section 6, page 5, line 21, at end insert—

<( ) Functions are not excluded from being functions of a public nature for the purposes of subsection (3)(a)(iii) solely because they are not publicly funded.>

## Section 7

### John Swinney

- 10 In section 7, page 6, line 3, leave out <by regulations> and insert <bring forward regulations to>

### John Swinney

- 11 In section 7, page 6, line 7, at end insert—

<( ) 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.>

### John Swinney

- 12 In section 7, page 6, line 8, leave out <draft> and insert <a draft of a Scottish statutory instrument containing>

### John Swinney

- 13 In section 7, page 6, line 8, leave out <for approval>

### Ruth Maguire

- 37 In section 7, page 6, line 9, leave out <such> and insert <—

( ) the Commissioner for Children and Young People in Scotland,  
( ) the Scottish Commission for Human Rights, and  
( ) such other>

## After section 10A

**Mary Fee**

38 After section 10A, insert—

*<Guidance on this Part*

### **Guidance on this Part**

- (1) The Scottish Ministers must issue guidance to support the implementation and operation of this Part.
- (2) Guidance may, in particular—
  - (a) promote understanding of this Part,
  - (b) promote child rights-respecting practice in relation to the implementation and operation of this Part,
  - (c) include information about how the implementation and operation of this Part can secure better or further effect of the rights of children,
  - (d) include information to support public authorities and others in working together in the implementation and operation of this Part.
- (3) 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.
- (4) The Scottish Ministers must, as soon as practicable after issuing guidance under subsection (1), publish the guidance in such manner as they consider appropriate.
- (5) The Scottish Ministers must from time to time review guidance issued under subsection (1) and may revise the guidance.
- (6) References in subsections (2) to (5) to guidance include references to revised guidance.>

## **Section 11**

**John Swinney**

14 In section 11, page 9, line 2, after <them> insert <with access to such support and representation (for example from children’s advocacy services) as they require to do so>

**Joe FitzPatrick**

39 In section 11, page 9, leave out lines 3 and 4 and insert—

<( ) identify and address any situation where a child’s rights are (or are at a significant risk of) not being fulfilled,>

**John Swinney**

15 In section 11, page 9, line 7, at end insert—

<( ) protect the rights of children in relation to their interactions with persons, other than public authorities, who provide services which affect children,>

**Mark Griffin**

40 In section 11, page 9, line 13, at end insert—

<( ) 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).>

**Joe FitzPatrick**

41 In section 11, page 9, leave out lines 27 and 28

**Section 12**

**John Swinney**

16 In section 12, page 10, line 5, after <relevant,> insert—

<( ) may have regard to any international law or comparative law that they consider to be relevant,>

**Section 13**

**John Swinney**

17 In section 13, page 10, line 33, after <Ministers> insert <—

(a)>

**John Swinney**

18 In section 13, page 11, line 1, at end insert—

<( ) the Committee adopting views and findings under the third optional protocol,

( ) the Committee making recommendations following days of general discussion,>

**John Swinney**

19 In section 13, page 11, line 3, at end insert <, 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.>

**John Swinney**

20 In section 13, page 11, line 5, after second <of> insert <—

(i)>

**John Swinney**

- 21 In section 13, page 11, line 6, after <period,> insert <and  
(ii) securing better or further effect of the rights of children,>

**John Swinney**

- 22 In section 13, page 11, line 7, leave out <Scheme,> and insert <Scheme or>

**John Swinney**

- 23 In section 13, page 11, line 25, at end insert—  
<“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,>

**John Swinney**

- 24 In section 13, page 11, line 31, at end insert—  
<“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.>

**Section 14**

**Fulton MacGregor**

- 42 In section 14, page 12, line 11, after <prepare> insert <and publish>

**John Swinney**

- 25 In section 14, page 12, line 12, after <decision> insert <by the Scottish Ministers>

**John Swinney**

- 26 In section 14, page 12, line 13, leave out <of school age> and insert <at schools>

**John Swinney**

- 27 In section 14, page 12, line 14, after <criteria> insert <of the Scottish Ministers that is>

**John Swinney**

- 28 In section 14, page 12, line 16, leave out <of school age at any school in its area> and insert <at  
schools under the education authority’s management>

**John Swinney**

- 29 In section 14, page 12, line 19, leave out from <has> to end of line 20 and insert <means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2),>

**Section 15**

**Clare Adamson**

- 43 In section 15, page 13, line 2, at end insert—  
<( ) 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.>

**Clare Adamson**

- 44 In section 15, page 13, line 6, leave out from <of> to end of line 7 and insert <beginning with the day on which this section comes into force and ending on 31 March 2023, and>

**Section 16**

**John Swinney**

- 30 In section 16, page 13, leave out lines 24 and 25

**After section 16**

**Mary Fee**

- 45 After section 16, insert—  
<**Guidance on section 15**  
(1) The Scottish Ministers must issue guidance about the carrying out of listed authorities' functions under section 15.  
(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.>

**Mary Fee**

46 After section 16, insert—

*<Reporting duty of the Scottish Parliament*

**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.>

**Section 18**

**Mary Fee**

47 In section 18, page 14, line 22, leave out <Government in charge of a Bill> and insert <Parliament introducing a Public Bill in the Parliament>

**Mary Fee**

48 In section 18, page 14, line 23, leave out <in the Scottish Parliament>

**Section 19**

**Alexander Stewart**

49 In section 19, page 15, line 2, leave out <an Act of Parliament,>

**Alexander Stewart**

50 In section 19, page 15, line 10, leave out <or Act of Parliament>

**Section 20**

**Alexander Stewart**

51 In section 20, page 15, line 35, leave out <unless> and insert <even when>

**Alexander Stewart**

- 52 In section 20, page 16, line 6, leave out from beginning to <force,> in line 7

**Alexander Stewart**

- 53 In section 20, page 16, line 13, leave out <or (as the case may be) an Act of Parliament>

**Alexander Stewart**

- 54 In section 20, page 16, line 14, leave out <or (as the case may be) such an Act of Parliament>

**Section 22**

**Alexander Stewart**

- 55 In section 22, page 17, line 17, at end insert—

<(1A) Where a court is considering whether to make a strike down declarator or an incompatibility declarator in relation to a provision of an Act of Parliament, intimation is to be given to the Advocate General for Scotland.>

**Alexander Stewart**

- 56 In section 22, page 17, line 21, at end insert—

<( ) If the Advocate General is given notice under subsection (1A), the Advocate General may, on giving notice, take part as a party to the proceedings so far as the proceedings relate to the making of a strike down declarator or declarator of incompatibility in relation to a provision of an Act of Parliament.>

**Section 29**

**Alexander Stewart**

- 57 In section 29, page 21, line 2, after <Advocate> insert <or Advocate General for Scotland>

**Alexander Stewart**

- 58 In section 29, page 21, line 4, after <Advocate> insert <or Advocate General>

**Section 30**

**Alexander Stewart**

- 59 In section 30, page 21, line 8, at end insert—

<( ) If the compatibility question referred to the Supreme Court under subsection (1) is in relation to a provision of an Act of Parliament, the Lord Advocate must intimate the making of the reference to the Advocate General for Scotland who may take part in the proceedings before the Supreme Court.>

## Section 35

### John Swinney

- 31 In section 35, page 24, leave out line 21

## Section 37

### John Swinney

- 32 In section 37, page 24, line 33, leave out <Act> and insert <section>

### John Swinney

- 33 In section 37, page 24, line 35, leave out <such power> and insert <power to make provision for regulating the practice or procedure of any court or tribunal>

## Section 40

### John Swinney

- 34 In section 40, page 25, line 32, after <force> insert <—  
(a)>

### John Swinney

- 35 In section 40, page 25, line 33, at end insert <, or  
<(b) on such earlier day as the Scottish Ministers may by regulations appoint.  
(3) Regulations under this section bringing into force any provisions containing any text referring to the day on which the provisions come into force may amend the text so that the text specifies the date on which the provisions actually come into force.  
(4) Regulations under this section—  
(a) may make different provision for different purposes,  
(b) may include transitional, transitory or saving provision.>



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