

getting
it right
for every child

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



Scottish Government
Riaghaltas na h-Alba
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In April 2019, the First Minister committed to incorporating the United Nations Convention on the Rights of the Child (UNCRC) into the law in Scotland



What is the United Nations Convention on the Rights of the Child (UNCRC)?

The UNCRC is the ‘gold standard’ across the world for children’s rights. It covers all aspects of a child’s life and sets out the civil, political, economic, social and cultural rights that all children everywhere are entitled to. It also explains how adults and governments must work together to make sure all children can enjoy all their rights.

What are “human rights” and “children’s rights”?

Human rights are the basic rights and freedoms that belong to every person in the world.

Children and young people have the same human rights as adults. They also have specific children’s rights under the UNCRC that recognise their special needs so that they can develop to reach their full potential.

What does incorporation mean?

Incorporation means children’s rights will be legally protected in Scotland.

It will mean that that public authorities must take steps to respect children’s rights in their decisions and actions.

And it will mean that children, young people and their representatives will be able to use courts in Scotland to enforce their rights.

Children and young people’s voices matter!

To help us decide the best way to put children’s rights into the law in Scotland, the Scottish Government held a public consultation in 2019. This included speaking directly to children and young people, including holding 7 events where the Scottish Government heard from over 180 children and young people.

The Scottish Government published a summary of what those organisations that represent the views of children and young people said in response to the consultation: <https://www.gov.scot/publications/uncrc-consultation-analysis-report/pages/5/>

Here’s what one young person said at a Scottish Youth Parliament consultation event:

“Incorporation will mean protections that need to be guaranteed and safety for children and young people. It is easier to look at a written document that says that these are the things I should have, rather than kind of guessing what you think you should have. This is empowering for me as a young person.”

The Scottish Government listened

On 20 November 2019, the 30th anniversary of the UNCRC, Deputy First Minister and Cabinet Secretary for Education and Skills, John Swinney announced that the UNCRC would be incorporated into the law in Scotland to the maximum extent possible within the powers of the Scottish Parliament.

He said the Scottish Government would incorporate the UNCRC in full and directly. This means giving children and young people the same rights as are in the UNCRC as far as possible within the powers of the Scottish Parliament.

UNCRC (Incorporation) (Scotland) Bill

On 1 September 2020, a Bill was introduced to the Scottish Parliament that will incorporate the UNCRC into the law of Scotland. The next section tells you more about the Bill and what it means for children and young people in Scotland.

What is the UNCRC (Incorporation) (Scotland) Bill?

The UNCRC (Incorporation) (Scotland) Bill is a proposed new law that will incorporate the UNCRC into the law in Scotland.

The Scottish Government wants to give children's rights the highest possible protection in Scotland. The new law will make it against the law for public authorities like the police, schools, hospitals and Scottish Ministers to act in a way which is not allowed by the UNCRC. It will mean that public authorities have to ensure that everything they do complies with children's rights. If they do not, children, young people and their representatives will be able to use the courts in Scotland to enforce their rights.

The new law will incorporate as many children's rights in the UNCRC as can be done within the powers of the Scottish Parliament. However, the Scottish Parliament doesn't have the power to put all children's rights in the UNCRC into law because some of these are "reserved". This means they are about things that only the UK Parliament can make laws about.

The Scottish Government thinks all children's rights in the UNCRC should be law in Scotland and is asking the UK Government for power to do this.

Who has Children's Rights?

The new law will mean that every child and young person under 18 years old has children's rights, whatever their ethnicity, gender, religion, language, abilities or any other status.

What will the UNCRC (Incorporation) (Scotland) Bill do for children and young people?

The Scottish Government wants the new law to deliver a revolution in children's rights, helping to make Scotland the best place in the world to grow up.

The new law will apply to all children and young people under the age of 18. The new law will mean that public authorities must take steps to respect children's rights in their decisions and actions. The new law will mean that children and young people will have to be involved and listened to in decisions about their own lives and communities.

The new law will mean that children and young people and their representatives can use the courts in Scotland to enforce their rights. It will allow the courts to make decisions about other laws if they breach children's rights.

The new law will also give a power to the Children and Young People's Commissioner in Scotland to take cases to court about breaches of children's rights.

The new law will also require the Scottish Ministers to publish a Children's Rights Scheme. This will be the place that children and young people and others can find out how the Scottish Ministers comply with children's rights. The Scottish Government and certain public bodies will also have to report on how they comply with children's rights and what they plan to do in the next year.

What happens next?

The UNCRC (Incorporation) (Scotland) Bill will now be considered by the Scottish Parliament which will invite people to share their views on the Bill. You can find out about this on the Scottish Parliament's website :

www.parliament.scot

If you would like more information about what the Bill does or you would like to tell the Scottish Government your views about what is in the Bill, please get in touch with us at:

UNCRCIncorporation@gov.scot.



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Any enquiries regarding this publication should be sent to us at

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