

Children's Rights Bill [HL]

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TO

Give further effect to rights and freedoms guaranteed under the United Nations Convention on the Rights of the Child; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Introduction

1 The Convention Rights

- (1) In this Act “the Convention rights” means the rights and fundamental freedoms set out in—
- (a) Articles 1 to 42 of the Convention, 5
 - (b) Articles 1 to 16 of the Optional Protocol on the sale of children, child prostitution and child pornography, and
 - (c) Articles 1 to 12 of the Optional Protocol on the involvement of children in armed conflict,
- as set out in Parts I, II and III respectively of Schedule 1 to this Act. 10
- (2) Those Articles are to have effect for the purposes of this Act subject to any designated declaration (as to which see clause 14).
- (3) The Secretary of State may by order make such amendments to this Act as he considers appropriate to reflect the effect, in relation to the United Kingdom, of a protocol. 15
- (4) In subsection (3) “protocol” means a protocol to the Convention—
- (a) which the United Kingdom has ratified; or
 - (b) which the United Kingdom has signed with a view to ratification.
- (5) No amendment may be made by an order under subsection (3) so as to come into force before the protocol concerned is in force in relation to the United Kingdom. 20

2 Interpretation of Convention rights

- (1) A court or tribunal determining a question which has arisen in connection with a Convention right must take into account any –
- (a) Concluding Observation made by the Committee in respect of the United Kingdom, 5
 - (b) General Comment made by the Committee, or
 - (c) decision or recommendation made by the Committee during a General Discussion Day or otherwise,
- whenever made or given, so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen. 10
- (2) Evidence of any Concluding Observation, General Comment, decision or recommendation of which account may have to be taken under this section is to be given in proceedings before any court or tribunal in such a manner as may be provided by rules.
- (3) In this section “rules” means rules of court or, in the case of proceedings before a tribunal, rules made for the purposes of this section – 15
- (a) by the Lord Chancellor or the Secretary of State, in relation to any proceedings outside Scotland;
 - (b) by the Secretary of State, in relation to proceedings in Scotland; or
 - (c) by a Northern Ireland department, in relation to proceedings before a tribunal in Northern Ireland – 20
 - (i) which deals with transferred matters; and
 - (ii) for which no rules made under paragraph (a) are in force.

Legislation

3 Interpretation of legislation

- (1) So far as it is possible to do so, primary legislation and subordinate legislation must be read and given effect in a way which is compatible with the Convention rights. 25
- (2) This section –
- (a) applies to primary legislation and subordinate legislation whenever enacted; 30
 - (b) does not affect the validity, continuing operation or enforcement of any incompatible primary legislation; and
 - (c) does not affect the validity, continuing operation or enforcement of any incompatible subordinate legislation if (disregarding any possibility of revocation) primary legislation prevents removal of the incompatibility. 35

4 Declaration of incompatibility

- (1) Subsection (2) applies in any proceedings in which a court determines whether a provision of primary legislation is compatible with a Convention right. 40
- (2) If the court is satisfied that the provision is incompatible with a Convention right, it may make a declaration of that incompatibility.

- (3) Subsection (4) applies in any proceedings in which a court determines whether a provision of subordinate legislation, made in the exercise of a power conferred by primary legislation, is compatible with a Convention right.
- (4) If the court is satisfied –
- (a) that the provision is incompatible with a Convention right, and
 - (b) that (disregarding any possibility of revocation) the primary legislation concerned prevents removal of the incompatibility,
- it may make a declaration of that incompatibility. 5
- (5) In this section “court” means –
- (a) the Supreme Court;
 - (b) the Courts-Martial Appeal Court;
 - (c) in Scotland, the High Court of Justiciary sitting otherwise than as a trial court or the Court of Session;
 - (d) in England and Wales or Northern Ireland, the High Court or the Court of Appeal.
- 10 15
- (6) A declaration under this section (“a declaration of incompatibility”) –
- (a) does not affect the validity, continuing operation or enforcement of the provision in respect of which it is given; and
 - (b) is not binding on the parties to the proceedings in which it is made.
- 5 Right of crown to intervene** 20
- (1) Where a court is considering whether to make a declaration of incompatibility, the Crown is entitled to notice in accordance with rules of court.
- (2) In any case to which subsection (1) applies –
- (a) a Minister of the Crown (or a person nominated by him),
 - (b) a member of the Scottish Executive,
 - (c) a Northern Ireland Minister,
 - (d) a Northern Ireland department,
- is entitled, on giving notice in accordance with rules of court, to be joined as a party to the proceedings. 25
- (3) Notice under subsection (2) may be given at any time during the proceedings. 30
- (4) A person who has been made a party to criminal proceedings (other than in Scotland) as the result of a notice under subsection (2) may, with leave, appeal to the Supreme Court against any declaration of incompatibility made in the proceedings.
- (5) In subsection (4) –
- “criminal proceedings” includes all proceedings before the Courts-Martial Appeal Court; and
 - “leave” means leave granted by the court making the declaration of incompatibility or by the Supreme Court.
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Public Authorities

6 Acts of public authorities

- (1) It is unlawful for a public authority to act in a way which is incompatible with a Convention right.
- (2) Subsection (1) does not apply to an act if – 5
- (a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or
- (b) in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions. 10
- (3) In this section “public authority” includes –
- (a) a court or tribunal, and
- (b) any person certain of whose functions are functions of a public nature, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament. 15
- (4) For the purposes of subsection (3)(b), a function of a public nature includes a function performed pursuant to a contract or other arrangement with a public authority which is under a duty to perform the function.
- (5) In relation to a particular act, and subject to subsection (4), a person is not a public authority by virtue only of subsection (3)(b) if the nature of the act is private. 20
- (6) “An act” includes a failure to act but does not include a failure to –
- (a) introduce in, or lay before, Parliament a proposal for legislation; or
- (b) make any primary legislation or remedial order. 25

7 Proceedings

- (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 the appropriate court or tribunal, or 30
- (b) rely on the Convention right or rights concerned in any legal proceedings, but only if he has a sufficient interest in the matter to which the claim relates.
- (2) In subsection (1)(a) “appropriate court or tribunal” means such court or tribunal as may be determined in accordance with rules; and proceedings against an authority include a counterclaim or similar proceeding. 35
- (3) Proceedings under subsection (1)(a) must be brought before the end of –
- (a) the period of one year beginning with the date on which the act complained of took place; or
- (b) such longer period as the court or tribunal considers equitable having regard to all the circumstances, 40
- but that is subject to any rule imposing a stricter time limit in relation to the procedure in question.
- (4) 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.
- (5) Nothing in this Act creates a criminal offence.
- (6) In this section “rules” means –
- (a) in relation to proceedings before a court or tribunal outside Scotland, rules made by the Lord Chancellor or the Secretary of State for the purposes of this section or rules of court, 5
 - (b) in relation to proceedings before a court or tribunal in Scotland, rules made by the Secretary of State for those purposes,
 - (c) in relation to proceedings before a tribunal in Northern Ireland – 10
 - (i) which deals with transferred matters; and
 - (ii) for which no rules made under paragraph (a) are in force, rules made by a Northern Ireland department for those purposes, and includes provision made by order under section 1 of the Courts and Legal Services Act 1990. 15
- (7) In making rules, regard must be had to section 9.
- (8) The Minister who has power to make rules in relation to a particular tribunal may, to the extent he considers it necessary to ensure that the tribunal can provide an appropriate remedy in relation to an act (or proposed act) of a public authority which is (or would be) unlawful as a result of section 6(1), by order add to – 20
- (a) the relief or remedies which the tribunal may grant; or
 - (b) the grounds on which it may grant any of them.
- (9) An order made under subsection (8) may contain such incidental, supplemental, consequential or transitional provision as the Minister making it considers appropriate. 25
- (10) “The Minister” includes the Northern Ireland department concerned.

8 Judicial remedies

- (1) In relation to any act (or proposed act) of a public authority which the court finds is (or would be) unlawful, it may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate. 30
- (2) But damages may be awarded only by a court which has power to award damages, or to order the payment of compensation, in civil proceedings.
- (3) No award of damages is to be made unless, taking account of all the circumstances of the case, including – 35
- (a) any other relief or remedy granted, or order made, in relation to the act in question (by that or any other court), and
 - (b) the consequences of any decision (of that or any other court) in respect of that act, the court is satisfied that the award is necessary to afford just satisfaction to the person in whose favour it is made. 40
- (4) A public authority against which damages are awarded is to be treated –
- (a) in Scotland, for the purposes of section 3 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1940 as if the award were made in an action of damages in which the authority has been found

- liable in respect of loss or damage to the person to whom the award is made;
- (b) for the purposes of the Civil Liability (Contribution) Act 1978 as liable in respect of damages suffered by the person to whom the award is made. 5
- (5) In this section –
 “court” includes a tribunal;
 “damages” means damages for an unlawful act of a public authority; and
 “unlawful” means unlawful under section 6(1).
- 9 Judicial acts** 10
- (1) Proceedings under section 7(1)(a) in respect of a judicial act may be brought only –
 (a) by exercising a right of appeal;
 (b) on an application (in Scotland a petition) for judicial review; or
 (c) in such other forum as may be prescribed by rules. 15
- (2) That does not affect any rule of law which prevents a court from being the subject of judicial review.
- (3) In proceedings under this Act in respect of a judicial act done in good faith, damages may not be awarded otherwise than to compensate a person for a violation of Article 37(2) of the Convention. 20
- (4) An award of damages permitted by subsection (3) is to be made against the Crown; but no award may be made unless the appropriate person, if not a party to the proceedings, is joined.
- (5) In this section –
 “appropriate person” means the Minister responsible for the court concerned, or a person or government department nominated by him; 25
 “court” includes a tribunal;
 “judge” includes a member of a tribunal, a justice of the peace and a clerk or other officer entitled to exercise the jurisdiction of a court;
 “judicial act” means a judicial act of a court and includes an act done on the instructions, or on behalf, of a judge; and 30
 “rules” has the same meaning as in section 7(6).

Remedial action

10 Power to take remedial action

- (1) This section applies if – 35
 (a) a provision of legislation has been declared under section 4 to be incompatible with a Convention right and, if an appeal lies –
 (i) all persons who may appeal have stated in writing that they do not intend to do so;
 (ii) the time for bringing an appeal has expired and no appeal has been brought within that time; or 40
 (iii) an appeal brought within that time has been determined or abandoned; or

- (b) it appears to a Minister of the Crown or Her Majesty in Council that, having regard to a decision, recommendation, General Comment or Concluding Observation of the Committee made after the coming into force of this section, a provision of legislation is incompatible with an obligation of the United Kingdom arising from the Convention. 5
- (2) If a Minister of the Crown considers that there are compelling reasons for proceeding under this section, he may by order make such amendments to the legislation as he considers necessary to remove the incompatibility.
- (3) If, in the case of subordinate legislation, a Minister of the Crown considers— 10
- (a) that it is necessary to amend the primary legislation under which the subordinate legislation in question was made, in order to enable the incompatibility to be removed, and
- (b) that there are compelling reasons for proceeding under this section, he may by order make such amendments to the primary legislation as he considers necessary. 15
- (4) This section also applies where the provision in question is in subordinate legislation and has been quashed, or declared invalid, by reason of incompatibility with a Convention right and the Minister proposes to proceed under paragraph 2(b) of Schedule 2.
- (5) If the legislation is an Order in Council, the power conferred by subsection (2) or (3) is exercisable by Her Majesty in Council. 20
- (6) In this section “legislation” does not include a Measure of the Church Assembly or of the General Synod of the Church of England.
- (7) Schedule 2 makes further provision about remedial orders.

Other rights and proceedings 25

11 Safeguard for existing human rights

A person's reliance on a Convention right does not restrict—

- (a) any other right or freedom conferred on him by or under any law having effect in any part of the United Kingdom, including but not limited to the Human Rights Act 1998; or 30
- (b) his right to make any claim or bring any proceedings which he could make or bring apart from sections 7 to 9.

12 Freedom of expression

- (1) This section applies if a court is considering whether to grant any relief which, if granted, might affect the exercise of the right to freedom of expression under the Convention or under Schedule 1 to the Human Rights Act 1998. 35
- (2) If the person against whom the application for relief is made (“the respondent”) is neither present nor represented, no such relief is to be granted unless the court is satisfied—
- (a) that the applicant has taken all practicable steps to notify the respondent; or 40
- (b) that there are compelling reasons why the respondent should not be notified.

- (3) No such relief is to be granted so as to restrain publication before trial unless the court is satisfied that the applicant is likely to establish that publication should not be allowed.
- (4) The court must have particular regard to the importance of the right to freedom of expression under the Convention and under Schedule 1 to the Human Rights Act 1998 and, where the proceedings relate to material to which the respondent claims, or which appears to the court, to be journalistic, literary or artistic material (or to conduct connected with such material), to— 5
- (a) the extent to which—
- (i) the material has, or is about to, become available to the public; or 10
- (ii) it is, or would be, in the public interest for the material to be published;
- (b) any relevant privacy code.
- (5) In this section— 15
- “court” includes a tribunal;
- “relief” includes any remedy or order (other than in criminal proceedings).

13 Freedom of thought, conscience and religion

- (1) If a court's determination of any question arising under this Act might affect the exercise by the members of a religious organisation collectively of the right to freedom of thought, conscience and religion under the Convention or under Schedule 1 to the Human Rights Act 1998, it must have particular regard to the importance of that right. 20
- (2) In this section “court” includes a tribunal. 25

Designated declarations

14 Designated declarations

- (1) In this Act “designated declaration” means—
- (a) the United Kingdom's declarations in relation to the Convention and its Optional Protocols as set out in Schedule 3; and 30
- (b) any other declaration by the United Kingdom to an Article of the Convention, or of any protocol to the Convention, which is designated for the purposes of this Act in an order made by the Secretary of State.
- (2) If a designated declaration is withdrawn wholly or in part it ceases to be a designated declaration. 35
- (3) But subsection (2) does not prevent the Secretary of State from exercising his power under subsection (1)(b) to make a fresh designation order in respect of the Article concerned.
- (4) The Secretary of State must by order make such amendments to this Act as he considers appropriate to reflect— 40
- (a) any designation order; or
- (b) the effect of subsection (2).

15 Periodic review of designated declarations

- (1) The appropriate Minister must review the designated declarations referred to in section 14(1)(a) –
 - (a) before the end of the period of five years beginning with the date on which section 1(2) came into force; and 5
 - (b) if that designation is still in force, before the end of the period of five years beginning with the date on which the last report relating to it was laid under subsection (3).
- (2) The appropriate Minister must review each of the other designated declarations (if any) – 10
 - (a) before the end of the period of five years beginning with the date on which the order designating the declaration first came into force; and
 - (b) if the designation is still in force, before the end of the period of five years beginning with the date on which the last report relating to it was laid under subsection (3). 15
- (3) The Minister conducting a review under this section must prepare a report on the result of the review and lay a copy of it before each House of Parliament.

*Parliamentary procedure***16 Statements of compatibility**

- (1) A Minister of the Crown in charge of a Bill in either House of Parliament must, before Second Reading of the Bill – 20
 - (a) make a statement to the effect that in his view the provisions of the Bill are compatible with the Convention rights (“a statement of compatibility”); or
 - (b) make a statement to the effect that although he is unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill. 25
- (2) The statement must be in writing and include the Minister’s reasoning and be published in such manner as the Minister making it considers appropriate.

Supplemental 30**17 Orders etc. under this Act**

- (1) Any power of a Minister of the Crown to make an order under this Act is exercisable by statutory instrument.
- (2) The power of the Lord Chancellor or the Secretary of State to make rules (other than rules of court) under section 2(3) or 7(6) is exercisable by statutory instrument. 35
- (3) Any statutory instrument made under section 14 must be laid before Parliament.
- (4) No order may be made by the Lord Chancellor or the Secretary of State under section 1(3), 7(8) or 10(2) unless a draft of the order has been laid before, and approved by, a resolution of each House of Parliament. 40

- (5) Any statutory instrument to which subsection (2) applies shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) The power of a Northern Ireland department to make—
 (a) rules under section 2(3)(c) or 7(6)(c), or
 (b) an order under section 7(8), 5
 is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (7) Any rules made under section 2(3)(c) or 7(6)(c) shall be subject to negative resolution; and section 41(6) of the Interpretation Act (Northern Ireland) 1954 (meaning of “subject to negative resolution”) shall apply as if the power to make the rules were conferred by an Act of the Northern Ireland Assembly. 10
- (8) No order may be made by a Northern Ireland department under section 7(8) unless a draft of the order has been laid before, and approved by, the Northern Ireland Assembly.
- 18 Interpretation, etc.** 15
- (1) In this Act—
 “amend” includes repeal and apply (with or without modifications);
 “the appropriate Minister” means the Minister of the Crown having charge of the appropriate authorised government department (within the meaning of the Crown Proceedings Act 1947); 20
 “the Committee” means the United Nations Committee on the Rights of the Child;
 “the Convention” means the Convention on the Rights of the Child, adopted by the United Nations and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, which entered into force on 2 September 1990 and was ratified by the United Kingdom on 16 December 1991, as it has effect for the time being in relation to the United Kingdom; 25
 “declaration of incompatibility” means a declaration under section 4;
 “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975; 30
 “Northern Ireland Minister” includes the First Minister and the deputy First Minister in Northern Ireland;
 “primary legislation” means any—
 (a) public general Act; 35
 (b) local and personal Act;
 (c) private Act;
 (d) Measure of the Church Assembly;
 (e) Measure of the General Synod of the Church of England;
 (f) Order in Council— 40
 (i) made in exercise of Her Majesty’s Royal Prerogative;
 (ii) made under the Northern Ireland Act 1998; or
 (iii) amending an Act of a kind mentioned in paragraph (a), (b) or (c);
 and includes an order or other instrument made under primary legislation (otherwise than by the National Assembly for Wales, a member of the Scottish Executive, a Northern Ireland Minister 45

or a Northern Ireland department) to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation;

“the Optional Protocol on the sale of children, child prostitution and child pornography” means the protocol to the Convention adopted by the United Nations and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 on 25 May 2000, which entered into force on 18 January 2002 and was ratified by the United Kingdom on 20 February 2009; 5

“the Optional Protocol on the involvement of children in armed conflict” means the protocol to the Convention adopted by the United Nations and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 on 25 May 2000, which entered into force on 12 February 2002 and was ratified by the United Kingdom on 24 June 2003; 10

“remedial order” means an order under section 10; 15

“subordinate legislation” means any –

(a) Order in Council other than one –
 (i) made in exercise of Her Majesty's Royal Prerogative;
 (ii) made under the Northern Ireland Act 1998; or
 (iii) amending an Act of a kind mentioned in the definition of primary legislation; 20

(b) Act of the Scottish Parliament;

(c) Act of the Parliament of Northern Ireland;

(d) Measure of the Northern Ireland Assembly; 25

(e) Act of the Northern Ireland Assembly;

(f) order, rules, regulations, scheme, warrant, byelaw or other instrument made under primary legislation (except to the extent to which it operates to bring one or more provisions of that legislation into force or amends any primary legislation); 30

(g) order, rules, regulations, scheme, warrant, byelaw or other instrument made under legislation mentioned in paragraph (b), (c), (d) or (e) or made under an Order in Council applying only to Northern Ireland;

(h) order, rules, regulations, scheme, warrant, byelaw or other instrument made by a member of the Scottish Executive, a Northern Ireland Minister or a Northern Ireland department in exercise of prerogative or other executive functions of Her Majesty which are exercisable by such a person on behalf of Her Majesty; 35

“transferred matters” has the same meaning as in the Northern Ireland Act 1998; and 40

“tribunal” means any tribunal in which legal proceedings may be brought.

19 Short title, commencement, application and extent 45

(1) This Act may be cited as the Children's Rights Act 2010.

(2) Section 17 and this section come into force on the passing of this Act.

- (3) The other provisions of this Act come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (4) Paragraph (b) of subsection (1) of section 7 applies to proceedings brought by or at the instigation of a public authority whenever the act in question took place; but otherwise that subsection does not apply to an act taking place before the coming into force of that section.
- (5) This Act binds the Crown.
- (6) This Act extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 1

THE ARTICLES

PART 1

THE CONVENTION

5

Article 1

- 1 For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

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- 1 Every child has the rights set forth in the present Convention without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- 2 Every child has the right to be protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians or family members.

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Article 3

- 1 In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
- 2 Every child has the right to such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians or other individuals legally responsible for him or her.
- 3 The State shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

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Article 4

- 1 The State shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, the State shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation. 5

Article 5

- 1 The State shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention. 10

Article 6

- 1 Every child has the inherent right to life. 15
- 2 The State shall ensure to the maximum extent possible the survival and development of the child.

Article 7

- 1 Every child shall be registered immediately after birth and has the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents. 20
- 2 The State shall ensure the implementation of these rights in accordance with its national law and its obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless. 25

Article 8

- 1 Every child has the right to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference. 30
- 2 Where a child is illegally deprived of some or all of the elements of his or her identity, the State shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

- 1 Every child has the right not to be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence. 35
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- 2 In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
- 3 Every child who is separated from one or both parents has the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 5
- 4 Where such separation results from any action initiated by the State, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, the State shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. The State shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned. 10 15

Article 10

- 1 In accordance with the obligation of the State under Article 9, paragraph 1, applications by a child or his or her parents to enter or leave the State for the purpose of family reunification shall be dealt with by the State in a positive, humane and expeditious manner. The State shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family. 20
- 2 A child whose parents reside in different States has the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of the State under Article 9, paragraph 1, the State shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognised in the present Convention. 25 30

Article 11

- 1 The State shall take measures to combat the illicit transfer and non-return of children abroad. 35
- 2 To this end, the State shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

- 1 Every child who is capable of forming his or her own views has the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. 40
- 2 For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, 45

either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

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| 1 | Every child has the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice. | 5 |
| 2 | The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary – | |
| | (a) for respect of the rights or reputations of others; or | 10 |
| | (b) for the protection of national security or of public order (ordre public), or of public health or morals. | |

Article 14

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| 1 | Every child has the right to freedom of thought, conscience and religion. | |
| 2 | The State shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child. | 15 |
| 3 | Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others. | 20 |

Article 15

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| 1 | Every child has the right to freedom of association and to freedom of peaceful assembly. | 25 |
| 2 | No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. | 30 |

Article 16

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| 1 | No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation. | |
| 2 | Every child has the right to the protection of the law against such interference or attacks. | 35 |

Article 17

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| 1 | The State recognises the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at | 40 |
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the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, the State shall –

- (a) encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29; 5
- (b) encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) encourage the production and dissemination of children's books; 10
- (d) encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Articles 13 and 18. 15

Article 18

- 1 The State shall use its best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. 20
- 2 For the purpose of guaranteeing and promoting the rights set forth in the present Convention, the State shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children. 25
- 3 The State shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible. 30

Article 19

- 1 The State shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. 35
- 2 Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. 40

Article 20

- 1 A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in 45

	that environment, shall be entitled to special protection and assistance provided by the State.	
2	The State shall in accordance with the law ensure alternative care for such a child.	
3	Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.	5
<i>Article 21</i>		10
1	The State shall ensure that the best interests of the child shall be the paramount consideration within its system of adoption and shall—	
	(a) ensure that the adoption of a child is authorised only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;	15
	(b) recognise that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;	20
	(c) ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;	25
	(d) take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;	
	(e) promote, where appropriate, the objectives of the present Article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.	30
<i>Article 22</i>		35
1	Every child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, have the right to receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the United Kingdom is a Party.	40
2	For this purpose, the State shall provide, as it considers appropriate, co-operation in any efforts by the United Nations and other competent inter-governmental organisations or non-governmental organisations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In	45

cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

<i>Article 23</i>		5
1	Every mentally or physically disabled child has the right to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.	
2	Every disabled child has the right to special care and the State shall encourage and ensure the extension, to the eligible child and those responsible for his or her care, of assistance which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.	10
3	Recognising the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present Article shall be provided free of charge, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.	15
4	The State shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas.	20
		25
<i>Article 24</i>		
1	Every child has the right to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. The State shall strive to ensure that no child is deprived of his or her right of access to such health care services.	30
2	The State shall pursue full implementation of this right and, in particular, shall take appropriate measures –	35
	(a) to diminish infant and child mortality;	
	(b) to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;	
	(c) to combat disease and malnutrition, including within the framework of primary health care, through inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution;	40
	(d) to ensure appropriate pre-natal and post-natal health care for mothers;	45
	(e) to ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported	

	in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;	
	(f) to develop preventive health care, guidance for parents and family planning education and services.	5
3	The State shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.	
4	The State undertakes to promote and encourage international co-operation with a view to achieving progressively the full realisation of the right recognised in the present Article. In this regard, particular account shall be taken of the needs of developing countries.	10
<i>Article 25</i>		
1	Every child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, has the right to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.	15
<i>Article 26</i>		
1	Every child has the right to benefit from social security, including social insurance, and the State shall take the necessary measures to achieve the full realisation of this right in accordance with their national law.	20
2	The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.	25
<i>Article 27</i>		
1	Every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.	
2	The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.	30
3	The State, in accordance with national conditions and within its means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.	35
4	The State shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the United Kingdom and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, the State shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.	40

Article 28

- 1 Every child has the right to education, and with a view to achieving this right progressively and on the basis of equal opportunity, the State shall, in particular –
 - (a) make primary and secondary education compulsory and available free to all; 5
 - (b) encourage the development of different forms of secondary education, including general and vocational education and make them available and accessible to every child;
 - (c) make higher education accessible to all on the basis of capacity by every appropriate means; 10
 - (d) make educational and vocational information and guidance available and accessible to all children;
 - (e) take measures to encourage regular attendance at schools and the reduction of drop-out rates. 15
- 2 The State shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
- 3 The State shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries. 20

Article 29

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- 1 The education of the child shall be directed to –
 - (a) the development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) the development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; 30
 - (c) the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilisations different from his or her own; 35
 - (d) the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) the development of respect for the natural environment. 40
- 2 No part of the present Article or Article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present Article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State. 45

Article 30

- 1 No child belonging to an ethnic, religious or linguistic minority or who is indigenous shall be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language. 5

Article 31

- 1 Every child has the right to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
- 2 The State shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity. 10

Article 32

- 1 Every child has the right to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. 15
- 2 The State shall take legislative, administrative, social and educational measures to ensure the implementation of the present Article. To this end, and having regard to the relevant provisions of other international instruments, the State shall in particular – 20
- (a) provide for a minimum age or minimum ages for admission to employment;
 - (b) provide for appropriate regulation of the hours and conditions of employment; 25
 - (c) provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present Article.

Article 33

- 1 The State shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances. 30

Article 34

- 1 Every child has the right to be protected from all forms of sexual exploitation and sexual abuse. For these purposes, the State shall in particular take all appropriate national, bilateral and multilateral measures to prevent – 35
- (a) the inducement or coercion of a child to engage in any unlawful sexual activity; 40
 - (b) the exploitative use of children in prostitution or other unlawful sexual practices;
 - (c) the exploitative use of children in pornographic performances and materials.

Article 35

- 1 The State shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

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- 1 Every child has the right to be protected against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

- 1 No child shall be subjected to torture or other cruel, inhumane or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; 10
- 2 No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; 15
- 3 Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and has the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; 20
- 4 Every child deprived of his or her liberty has the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action. 25

Article 38

- 1 The State undertakes to respect and to ensure respect for rules of international humanitarian law applicable to it in armed conflicts which are relevant to the child, including the provisions of the Optional Protocol to this Convention on the involvement of children in armed conflict. 30
- 2 The State shall take all feasible measures to ensure that persons who have not attained the age of eighteen years do not take a direct part in hostilities. 35
- 3 The State shall refrain from recruiting any person who has not attained the age of sixteen years into their armed forces. In recruiting among those persons who have attained the age of sixteen years but who have not attained the age of eighteen years, the State shall endeavour to give priority to those who are oldest. 40
- 4 In accordance with its obligations under international humanitarian law to protect the civilian population in armed conflicts, the State shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

- 1 The State shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhumane or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child. 5

Article 40

- 1 Every child alleged as, accused of, or recognised as having infringed the penal law has the right to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society. 10 15
- 2 To this end, and having regard to the relevant provisions of international instruments, the State shall, in particular, ensure that –
- (a) no child shall be alleged as, be accused of, or recognised as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed; 20
 - (b) every child alleged as or accused of having infringed the penal law has at least the following guarantees –
 - (i) to be presumed innocent until proven guilty according to law; 25
 - (ii) to be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; 30
 - (iii) to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians; 35
 - (iv) not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality; 40
 - (v) if considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law; 45
 - (vi) to have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - (vii) to have his or her privacy fully respected at all stages of the proceedings.

3	The State shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and, in particular—	
	(a) the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;	5
	(b) whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.	
4	A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.	10
<i>Article 41</i>		15
1	Nothing in the present Convention shall affect any provisions which are more conducive to the realisation of the rights of the child and which may be contained in—	
	(a) any other enactment; or	
	(b) international law to which the United Kingdom is a party.	20
<i>Article 42</i>		
1	The State shall make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.	
PART 2		
OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY		25
<i>Article 1</i>		
1	The sale of children, child prostitution and child pornography is prohibited as provided for by the present Protocol.	
<i>Article 2</i>		
1	For the purposes of the present Protocol—	
	(a) sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;	
	(b) child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;	35
	(c) child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.	40

Article 3

- 1 The State shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organised basis – 5
- (a) in the context of sale of children as defined in Article 2:
 - (i) offering, delivering or accepting, by whatever means, a child for the purpose of –
 - (a) sexual exploitation of the child;
 - (b) transfer of the organs of the child for profit; 10
 - (c) engagement of the child in forced labour;
 - (ii) improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
 - (b) offering, obtaining, procuring or providing a child for child prostitution, as defined in Article 2; 15
 - (c) producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in Article 2.
- 2 Subject to the provisions of national law, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts. 20
- 3 The State shall make such offences punishable by appropriate penalties that take into account their grave nature.
- 4 Subject to the provisions of national law, the State shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present Article. Subject to the United Kingdom's legal principles, such liability of legal persons may be criminal, civil or administrative. 25
- 5 The State shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments. 30

Article 4

- 1 The State shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in the United Kingdom or its territories. 35
- 2 The State may take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 3, paragraph 1, in the following cases – 40
- (a) when the alleged offender is a United Kingdom national or a person who has his habitual residence in United Kingdom territory;
 - (b) when the victim is a United Kingdom national.
- 3 The State shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in United Kingdom territory and it does not extradite him or her to 45

	another State on the ground that the offence has been committed by a United Kingdom national.	
4	The present Protocol does not exclude any criminal jurisdiction exercised in accordance with any law having effect in any part of the United Kingdom.	
<i>Article 5</i>		5
1	The offences referred to in Article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between the United Kingdom and any other State Party to this Optional Protocol and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.	10
2	If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.	15
3	States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.	20
4	Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 4.	
5	If an extradition request is made with respect to an offence described in Article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.	25
<i>Article 6</i>		30
1	The State shall afford other States Parties to this Optional Protocol the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in Article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.	35
2	The State shall carry out its obligations under paragraph 1 of the present Article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between it and other States Parties to this Optional Protocol. In the absence of such treaties or arrangements, the State shall afford other States Parties to this Optional Protocol assistance in accordance with domestic law.	40
<i>Article 7</i>		
1	The State shall, subject to the provisions of national law – (a) take measures to provide for the seizure and confiscation, as appropriate, of –	45

- (i) goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
- (ii) proceeds derived from such offences;
- (b) execute requests from another State for seizure or confiscation of goods or proceeds referred to in sub-paragraph (a); 5
- (c) take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

- 1 The State shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by – 10
 - (a) recognising the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses; 15
 - (b) informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
 - (c) allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law; 20
 - (d) providing appropriate support services to child victims throughout the legal process;
 - (e) protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims; 25
 - (f) providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation; 30
 - (g) avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.
- 2 The State shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim. 35
- 3 The State shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration. 40
- 4 The State shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.
- 5 The State shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organisations involved in the prevention and/or protection and rehabilitation of victims of such offences. 45
- 6 Nothing in the present Article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

- 1 The State shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programs to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices. 5
- 2 The State shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this Article, the State shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level. 10
- 3 The State shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery. 15
- 4 The State shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.
- 5 The State shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol. 20

Article 10

- 1 The State shall take all necessary steps to strengthen international co-operation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. The State shall also promote international co-operation and co-ordination between its authorities and those of other States Parties to this Optional Protocol, national and international non-governmental organisations and international organisations. 25
- 2 The State shall promote international co-operation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
- 3 The State shall promote the strengthening of international co-operation in order to address the root causes, such as poverty and under-development, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism. 35
- 4 The State shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes. 40

Article 11

- 5 Nothing in the present Protocol shall affect any provisions that are more conducive to the realisation of the rights of the child and that may be contained in—
 (a) the law of the United Kingdom; 45

- (b) international law in force for the United Kingdom.

PART 3

OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

Article 1

- 1 The State shall take all feasible measures to ensure that members of the United Kingdom Armed Forces who have not attained the age of eighteen years do not take a direct part in hostilities. 5

Article 2

- 1 The State shall ensure that persons who have not attained the age of eighteen years are not compulsorily recruited into the United Kingdom Armed Forces. 10

Article 3

- 2 The State shall raise the minimum age for the voluntary recruitment of persons into the United Kingdom Armed Forces from that set out in Article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognising that under the Convention persons under the age of eighteen years are entitled to special protection. 15
- 3 To the extent that the State permits voluntary recruitment into the United Kingdom Armed Forces under the age of eighteen years it shall maintain safeguards to ensure, as a minimum, that – 20
- (a) such recruitment is genuinely voluntary;
 - (b) such recruitment is carried out with the informed consent of the person's parents or legal guardians;
 - (c) such persons are fully informed of the duties involved in such military service; 25
 - (d) such persons provide reliable proof of age prior to acceptance into national military service.
- 4 The requirement to raise the age in paragraph 1 of the present Article does not apply to schools operated by or under the control of the United Kingdom Armed Forces, in keeping with Articles 28 and 29 of the Convention on the Rights of the Child. 30

Article 4

- 1 Armed groups that are distinct from the United Kingdom Armed Forces should not, under any circumstances, recruit or use in hostilities persons under the age of eighteen years. 35
- 2 The State shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalise such practices.
- 3 The application of the present Article shall not affect the legal status of any party to an armed conflict. 40

Article 5

- 1 Nothing in the present Protocol shall be construed as precluding provisions in any law having effect in any part of the United Kingdom or in international instruments and international humanitarian law that are more conducive to the realisation of the rights of the child. 5

Article 6

- 1 The State shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within the United Kingdom and its territories.
- 2 The State shall make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike. 10
- 3 The State shall take all feasible measures to ensure that persons within the United Kingdom and its territories that are recruited or used in hostilities contrary to the present Protocol are demobilised or otherwise released from service. The State shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration. 15

Article 7

- 1 The State shall co-operate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical co-operation and financial assistance. Such assistance and co-operation will be undertaken in consultation with the States concerned and the relevant international organisations. 20
- 2 The State shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly. 25

SCHEDULE 2

Section 10 30

REMEDIAL ORDERS

Orders

- 1 (1) A remedial order may –
- (a) contain such incidental, supplemental, consequential or transitional provision as the person making it considers appropriate; 35
 - (b) be made so as to have effect from a date earlier than that on which it is made;
 - (c) make provision for the delegation of specific functions;
 - (d) make different provision for different cases.
- (2) The power conferred by sub-paragraph (1)(a) includes – 40

-
- (a) power to amend primary legislation (including primary legislation other than that which contains the incompatible provision); and
- (b) power to amend or revoke subordinate legislation (including subordinate legislation other than that which contains the incompatible provision). 5
- (3) A remedial order may be made so as to have the same extent as the legislation which it affects.
- (4) No person is to be guilty of an offence solely as a result of the retrospective effect of a remedial order.
- Procedure* 10
- 2 No remedial order may be made unless –
- (a) a draft of the order has been approved by a resolution of each House of Parliament; or
- (b) it is declared in the order that it appears to the person making it that, because of the urgency of the matter, it is necessary to make the order without a draft being so approved. 15
- Orders laid in draft*
- 3 (1) No draft may be laid under paragraph 2(a) unless –
- (a) the person proposing to make the order has laid before Parliament a document which contains a draft of the proposed order and the required information; and 20
- (b) the period of 60 days, beginning with the day on which the document required by this sub-paragraph was laid, has ended.
- (2) If representations have been made during that period, the draft laid under paragraph 2(a) must be accompanied by a statement containing – 25
- (a) a summary of the representations; and
- (b) if, as a result of the representations, the proposed order has been changed, details of the changes.
- Urgent cases*
- 4 (1) If a remedial order (“the original order”) is made without being approved in draft, the person making it must lay it before Parliament, accompanied by the required information, after it is made. 30
- (2) If representations have been made during the period of 60 days beginning with the day on which the original order was made, the person making it must (after the end of that period) lay before Parliament a statement containing – 35
- (a) a summary of the representations; and
- (b) if, as a result of the representations, he considers it appropriate to make changes to the original order, details of the changes.
- (3) If sub-paragraph (2)(b) applies, the person making the statement must – 40
- (a) make a further remedial order replacing the original order; and
- (b) lay the replacement order before Parliament.
- (4) If, at the end of the period of 120 days beginning with the day on which the original order was made, a resolution has not been passed by each House

approving the original or replacement order, the order ceases to have effect (but without that affecting anything previously done under either order or the power to make a fresh remedial order).

Definitions

- 5 In this schedule— 5
- “representations” means representations about a remedial order (or proposed remedial order) made to the person making (or proposing to make) it and includes any relevant Parliamentary report or resolution; and
- “required information” means— 10
- (a) an explanation of the incompatibility which the order (or proposed order) seeks to remove, including particulars of the relevant declaration, finding or order; and
- (b) a statement of the reasons for proceeding under section 10 and for making an order in those terms. 15

Calculating periods

- 6 In calculating any period for the purposes of this Schedule, no account is to be taken of any time during which—
- (a) Parliament is dissolved or prorogued; or
- (b) both Houses are adjourned for more than four days. 20

SCHEDULE 3

Section 14

DESIGNATED DECLARATIONS

Declarations upon signature of the Convention

- 1 The United Kingdom reserves the right to formulate, upon ratifying the Convention, any reservations or interpretative declarations which it might consider necessary. 25

Declarations upon ratification of the Convention

- 2 (1) The United Kingdom interprets the Convention as applicable only following a live birth.
- (2) The United Kingdom interprets the references in the Convention to ‘parents’ to mean only those persons who, as a matter of national law, are treated as parents. This includes cases where the law regards a child as having only one parent, for example where a child has been adopted by one person only and in certain cases where a child is conceived other than as a result of sexual intercourse by the woman who gives birth to it and she is treated as the only parent. 30 35

Declaration on 7 September 1994 on the Convention

- 3 The United Kingdom reserves the right to extend the Convention at a later date to any territory for whose international relations the Government of the United Kingdom is responsible. 40

Further declarations on the Convention

- 4 (1) The United Kingdom refers to the reservation and declarations (a), (b) and (c) which accompanied its instrument of ratification and makes a similar reservation and declarations in respect to each of its dependent territories.
- (2) The United Kingdom, in respect of each of its dependent territories except Hong Kong and Pitcairn, reserves the right to apply Article 32 subject to the laws of those territories which treat certain persons under eighteen not as children but as 'young people'. In respect of Hong Kong, the United Kingdom reserves the right not to apply article 32(2)(b) in so far as it might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments.
- (3) Where at any time there is a lack of suitable detention facilities or where the mixing of adults and children is deemed to be mutually beneficial, the United Kingdom, in respect of each of its dependent territories, reserves the right not to apply Article 37(3) in so far as those provisions require children who are detained to be accommodated separately from adults.
- (4) The United Kingdom, in respect of Hong Kong and the Cayman Islands, will seek to apply the Convention to the fullest extent to children seeking asylum in those territories except in so far as conditions and resources make full implementation impracticable. In particular, in relation to Article 22, the United Kingdom reserves the right to continue to apply any legislation in those territories governing the detention of children seeking refugee status, the determination of their status and their entry into, stay in and departure from those territories.
- (5) The Government of the United Kingdom reserves the right to extend the Convention at a later date to any other territories for whose international relations the Government of the United Kingdom is responsible.
- Declaration made upon signature and confirmed upon ratification of the Optional Protocol on the Rights of the Child on the involvement of children in armed conflict*
- 5 The United Kingdom of Great Britain and Northern Ireland will take all feasible measures to ensure that members of its armed forces who have not attained the age of eighteen years do not take a direct part in hostilities.
- 6 The United Kingdom understands that Article 1 of the Optional Protocol would not exclude the deployment of members of its armed forces under the age of eighteen to take a direct part in hostilities where –
- (a) there is a genuine military need to deploy their unit or ship to an area in which hostilities are taking place; and
 - (b) by reason of the nature and urgency of the situation –
 - (i) it is not practicable to withdraw such persons before deployment; or
 - (ii) to do so would undermine the operational effectiveness of their ship or unit, and thereby put at risk the successful completion of the military mission and/or the safety of other personnel.

Declaration made upon ratification of the Optional Protocol on the Rights of the Child on the involvement of children in armed conflict

- 7 (1) In accordance with Article 3, paragraph 2, of the Optional Protocol, the minimum age at which individuals may join the UK Armed Forces is sixteen years. This minimum broadly reflects the minimum statutory school leaving age in the United Kingdom, that is the age at which young persons may first be permitted to cease full-time education and enter the full-time employment market. Parental consent is required in all cases of recruitment under the age of eighteen years. 5
- 8 (1) The United Kingdom maintains the following safeguards in respect of voluntary recruitment into the armed forces. 10
- (2) The United Kingdom Armed Forces are manned solely by volunteers; there is no compulsory recruitment.
- (3) A declaration of age, backed by an authoritative, objective proof (typically the production of an authentic birth certificate) is an integral and early requirement in the recruitment process. Should an individual volunteering to enter the United Kingdom Armed Forces be found either by their own declaration or by inspection of supporting evidence of age to be under eighteen years of age, special procedures are adopted. These procedures include— 15
- (a) the involvement of the parent(s) or legal guardian(s) of the potential recruits; 20
- (b) clear and precise explanation of the nature of duties involved in military service to both the individual and their parent(s)/guardian(s); and 25
- (c) as well as explaining the demands of military life to the individual volunteer and establishing that he/she remains a genuine volunteer, the requirement that the parent(s) or guardian(s), having been similarly informed, freely consent to the individual's entry into the Armed Forces and duly countersign the appropriate application or other appropriate recruitment process forms. 30

Children's Rights Bill [HL]

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B I L L

To give further effect to rights and freedoms guaranteed under the United Nations Convention on the Rights of the Child; and for connected purposes.

Baroness Walmsley

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