

Consultation Response

Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Bill

August 2025

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General Comments

1. What are your views on the proposed changes in the Bill to require that a child is informed if their parent asks for them to be withdrawn from either or both RME/RE and religious observance in school.

Our Comment

It is necessary to amend section 9 of the 1980 Act to qualify the parental right to withdraw a child from either or both RME/RO to ensure that the child's views are considered as part of any withdrawal request, with due weight being given in line with the child's age and maturity.

It is essential that the law relating to the exercise of the parent's right to withdraw a child from RME/RO is clear and compliant with Scotland's UNCRC obligations.

Respecting that there are many strongly held views on whether or not children should be able to withdraw from religious education the Society is neutral on this question. However, we noted the non-legally binding Concluding Observations of the UN Committee on the Rights of the Child in 2023, calling upon the UK: "to repeal legal provisions for compulsory attendance in collective worship and establishing statutory guidance to ensure the right of all children, including children under 16 years of age, to withdraw from religious classes without parental consent.": [Concluding observations on the combined 6th and 7th periodic reports of the United Kingdom of Great Britain and Northern Ireland](#) : Paragraph 26(d). The Policy Memorandum whilst considering the views of the Children and Young People' Commissioner Scotland did not explain fully why the Government did not consider that it was appropriate at the present time to give effect to the recommendations made by the UN Committee: see Policy Memorandum paragraph 75. We recommend that the Government take to opportunity of this bill to set out fully its reasons for the course of action which have resulted in the bill as introduced.

2. What are your views on the proposed changes in the Bill to require that a child is given the chance to express their views; and where the child's views are different from the parent's views, the school would have to follow the child's wishes? Please note, this only applies where the parent wishes to withdraw their child, but the child wishes not to be withdrawn.

Our Comment

Section 1(3) inserts into the 1980 Act a new section 9 which requires the operator of the school to:

- (a) tell the pupil about the request and the pupil's right to object to withdrawal,
- (b) give the pupil an opportunity to express the pupil's views about the request

in— (i) the manner that the pupil prefers, or (ii) a manner that is suitable to the pupil if the pupil has not indicated a preference or it is not reasonable to accommodate the pupil's preference, and
(c) have regard to any views expressed by the pupil about the request, taking into account the pupil's age and maturity.

As the Policy Memorandum states “This aligns with the complementary duty on education authorities to comply with UNCRC requirements under the UNCRC Act when carrying out a “relevant function” under section 6 of that Act.”

We agree with this approach.

3. What do you anticipate being the implications of this Bill for schools, pupils and parents?

[Our Comment](#)

We have no comments to make.

4. What insights or experiences do you have regarding how the right to withdraw from religious observance and RME/RE currently works in schools?

[Our Comment](#)

We have no comments to make.

5. This Bill will introduce an exemption to the section 6 compatibility duty of the UNCRC Act in circumstances where a public authority is compelled to act incompatibly with UNCRC requirements in fulfilment of another Act of the Scottish Parliament. This mirrors the approach taken to Acts of the UK Parliament. Do you have any thoughts on this approach?

[Our Comment](#)

Section 2 (3) of the Bill will add new sections 6A and 6B to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. These new sections introduce an exemption to the compatibility duty in section 6 of the UNCRC Act where a public authority is compelled to act incompatibly with UNCRC requirements by either an Act of Parliament (new section 6A) or by another Act of the Scottish Parliament or by Scottish subordinate legislation where the parent Act of the Scottish Parliament mandated the incompatibility (new section 6B). The Scottish Government sought to include an amendment dealing with this matter during the Reconsideration Stage for the UNCRC Bill. The amendment was outwith the scope of the Reconsideration Stage. Accordingly, the Scottish Government has included the amendment in the Bill.

On principle the Scottish Parliament should not legislate to compel public authorities to act in a way which is incompatible with the UNCRC. If the Parliament is confronted with such a bill in the future, it should only proceed to legislate if it is satisfied that that is the only course open to it. In particular, the Parliament should demand that the Government presenting such a measure has consulted broadly, considered the results of the consultation carefully and fully demonstrated that there is no other course of action which can be taken.

6. Have you got any other comments on the Bill?

Our Comments

We are concerned at the terms of section 3 of the bill which includes in section 3(2) the following provision: “Regulations under this section may— (a) modify any enactment (including this Act)...”: [Bill as introduced](#). The exercise of the power is limited to giving “full effect to this Act”, why then does it apply to “any enactment”? The Government must know which legislation it may wish to amend under such regulations.

These regulations fall within the category of Henry VIII powers which include the power to amend primary legislation by subordinate legislation. The bill provides that “any regulations under this section which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.”

We disagree generally with the provision of Henry VIII powers. If Ministers require to amend legislation regulations (other than remedial orders where there is a constitutional imperative to amend legislation quickly) are not the way to do it. Expedited or Emergency legislation have scrutiny methods which are better than that accorded to regulations. In particular, those procedures allow the measure under consideration to be amended. Ministers should set out clearly the reason why such a power is thought necessary in this bill.



For further information, please contact:

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