



# United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 2024 asp 1

## PART 6

### REMEDIAL REGULATIONS

#### 39 Remedial regulations

- (1) In the circumstances set out in subsection (2), the Scottish Ministers may by regulations (“remedial regulations”) make such provision as they consider necessary or expedient in consequence of—
- (a) any provision of affected legislation, or
  - (b) any exercise or purported exercise of functions by a member of the Scottish Government,
- which is or may be incompatible with the UNCRC requirements.
- (2) The circumstances are that the Scottish Ministers consider that there are compelling reasons for making remedial regulations as distinct from taking any other action.
- (3) Remedial regulations may—
- (a) relate to—
    - (i) all cases to which the power to make it extends,
    - (ii) those cases subject to specified exceptions, or
    - (iii) any particular case or type of case,
  - (b) modify any enactment (including this Act) or prerogative instrument or any other instrument or document relating to the exercise or purported exercise of functions by the Scottish Ministers,
  - (c) create criminal offences (but see subsection (4)),
  - (d) make provision (other than provision creating criminal offences or increasing the punishment for criminal offences) which has retrospective effect,
  - (e) provide for the delegation of functions.

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**Changes to legislation:** There are currently no known outstanding effects for the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, Section 39. (See end of Document for details)

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- (4) The maximum penalties that may be provided for in remedial regulations are—
- (a) on summary conviction, imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale (or both),
  - (b) on conviction on indictment, imprisonment for a term not exceeding 2 years.
- (5) In this section, “affected legislation” means an enactment (whenever enacted) that it would be within the legislative competence of the Scottish Parliament to make—
- (a) that comprises—
    - (i) an Act of the Scottish Parliament,
    - (ii) an Act of Parliament, or
  - (b) that is wholly or partly made by virtue of an enactment mentioned in paragraph (a).
- (6) For the purposes of subsection (5), an enactment that extends to Scotland and other jurisdictions is not, for that reason alone, to be regarded as outside the legislative competence of the Scottish Parliament.

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**Commencement Information**

**II** S. 39 in force at 16.7.2024, see s. 47(2)(a)

**Changes to legislation:**

There are currently no known outstanding effects for the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, Section 39.