

**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:
Explanatory Notes (SP Bill 66-EN), a Financial Memorandum (SP Bill 66-FM), a Policy
Memorandum (SP Bill 66-PM), a Delegated Powers Memorandum (SP Bill 66-DPM) and
statements on legislative competence (SP Bill 66-LC).**

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

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the involvement of a pupil in a decision to withdraw the pupil from religious instruction or religious observance in schools; and to make provision about circumstances where incompatibility with the requirements of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 is not unlawful.

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PART 1

**PUPIL’S INVOLVEMENT IN DECISION ABOUT WITHDRAWAL FROM RELIGIOUS INSTRUCTION OR
RELIGIOUS OBSERVANCE**

1 Pupil’s involvement in decision about withdrawal from religious instruction or religious observance

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(1) The Education (Scotland) Act 1980 is modified as follows.

(2) In section 9 (conscience clause)—

(a) the existing text becomes subsection (1),

(b) after that subsection insert—

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“(2) The exercise of the right under subsection (1) for a parent to withdraw a pupil from instruction in religious subjects or from religious observance in a school is subject to section 9A.”.

(3) After section 9 insert—

“9A Pupil’s involvement in decision about withdrawal from religious instruction or religious observance

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(1) This section applies if a parent has made a request to withdraw a pupil from instruction in religious subjects or from religious observance (or from both) in a school under section 9(1).

- (2) The operator of the school must—
- (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.
- (3) The operator is not required to comply with subsection (2) if satisfied that the pupil is not capable of forming a view.
- (4) The pupil is to be presumed to be capable of forming a view unless the contrary is shown.
- (5) If, after the operator has complied with subsection (2), the pupil objects to all or part of the parent’s request, the operator must—
- (a) seek to discuss the pupil’s objection with the pupil and the parent, and
 - (b) have regard to any views expressed during any discussion.
- (6) If the pupil objects to all or part of the parent’s request, after the operator has complied with subsection (5) the operator is not to give effect to the parent’s request to the extent of the pupil’s objection.
- (7) In this section and section 9B, “operator” means—
- (a) where the school is a public school, the education authority by which it is managed,
 - (b) where the school is a grant-aided school, the managers.

9B Guidance to operators on section 9A

In carrying out functions under section 9A, an operator must have regard to any guidance that the Scottish Ministers may give about those functions.”.

PART 2

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (INCORPORATION) (SCOTLAND)
ACT 2024: CIRCUMSTANCES WHERE INCOMPATIBLE ACTION OR FAILURE TO ACT IS NOT UNLAWFUL

2 United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024: circumstances where incompatible action or failure to act is not unlawful

- (1) The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 is modified as follows.

- (2) In section 6 (acts of public authorities to be compatible with the UNCRC requirements)—
- (a) in subsection (1), for “subsection (4)” insert “sections 6A and 6B”,
- (b) subsection (4) is repealed.
- (3) After section 6 insert—

“6A No unlawfulness where incompatible action or failure to act relies on UK enactment

Section 6(1) does not make unlawful doing or failing to do something if the public authority was required or entitled to act in that way by words that—

- (a) are not contained in an enactment of a kind mentioned in section 6(2)(b),
or
- (b) are contained in such an enactment having been inserted into it by an enactment of a kind that is not mentioned in section 6(2)(b).

6B No unlawfulness where incompatible action or failure to act relies on Scottish enactment

- (1) Section 6(1) does not make unlawful doing or failing to do something if the public authority was required to act in that way by words in an Act of the Scottish Parliament to which section 29 applies.
- (2) Section 6(1) does not make unlawful doing or failing to do something if—
- (a) the public authority was required to act in that way by words in a Scottish statutory instrument to which section 30 applies, and
- (b) (disregarding any possibility of revocation) the Act of the Scottish Parliament under which the Scottish statutory instrument was made prevents removal of the incompatibility with the UNCRC requirements.”.

PART 3

FINAL PROVISIONS

3 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with, or for giving full effect to this Act.
- (2) Regulations under this section may—
- (a) modify any enactment (including this Act),
- (b) make different provision for different purposes.
- (3) Regulations under this section—
- (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure, but
- (b) otherwise, are subject to the negative procedure.

4 Commencement

- (1) This section and sections 3 and 5 come into force on the day after Royal Assent.
- (2) Sections 1 and 2 come into force on such day as the Scottish Ministers may by regulations appoint.
- (4) Regulations under subsection (2) may—
 - (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.

5 Short title

The short title of this Act is the Children (Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty) (Scotland) Act 2026.

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