



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

## Briefing on the Stage 1 debate, 25<sup>th</sup> November 2025

This briefing is provided to MSPs ahead of their Stage 1 consideration of the above Bill on 25<sup>th</sup> November 2025.

Together (Scottish Alliance for Children's Rights) warmly welcomes the introduction of the [Children \(Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty\) \(Scotland\) Bill](#). The Bill is an opportunity to take practical steps towards stronger protection of children's rights and, as such, we welcome the intentions behind the Bill and encourage MSPs to support the general principles of the Bill during the Stage 1 debate on 25<sup>th</sup> November 2025.

- **We call on MSPs to support the Bill at Stage 1 in principle, so that the necessary amendments can be made at Stage 2.**

### Key amendments required

In our [written](#) and [oral evidence](#) as well as our [letter](#) (dated Monday 27th of October 2025) to the Committee, we highlight several areas in which the Bill should be strengthened. This briefing outlines key concerns regarding Parts 1 and 2 of the Bill and its implications for children's rights in relation to Religious Observance (RO) and Religious and Moral Education (RME). At Stage 2, we urge MSPs to support amendments that will ensure the Bill aligns with the UN Convention on the Rights of the Child (UNCRC) and provides clear, rights-based guidance for schools, parents and children.

The Bill is drafted in two parts and as such, our proposed amendments are outlined in the same manner.

### Part 1

#### **Children's independent right to withdraw from religious observance:**

It is essential that the Bill be amended to guarantee children and young people an independent right to withdraw from RO. The Bill in its current form does not grant children this independent right, instead deferring to parent/carers discretion. This goes against children's rights to freedom of thought, conscience and religion (Article 14), and the UNCRC's latest Concluding Observations which state that governments must ensure that all

children, including those under the age of 16, have the right to withdraw from RO without needing parental consent.<sup>1</sup>

With the current system in place, a child's right to withdraw remains dependent on adult discretion rather than recognising their evolving capacities as outlined in Articles 5<sup>2</sup> and 12 of the UNCRC.<sup>3</sup>

Article 12 of the UNCRC provides children with the right to freely express their own views in all matters that affect them.<sup>4</sup> Every child's opinion must be listened to and taken seriously, in line with the child's age and maturity. Article 5 recognises the important role that parents and carers play in providing guidance to children as they learn to exercise their rights.<sup>5</sup> However, it also makes clear that this guidance must evolve in line with the child's developing capacities. This principle is central to discussion about whether older children should be able to make their own decisions regarding withdrawal from RO. Article 29 states that education should nurture children's talents and abilities while promoting respect for human rights, diversity and different beliefs. This reflects the value of RME within the curriculum, while also making it clear that it is distinct from RO.<sup>6</sup> Article 14 safeguards children's freedom of thought, conscience and religion, while permitting parents and carers to offer guidance that reflects the child's growing maturity. This ensures that no child is ever forced to participate in any religious practices against their wishes.<sup>7</sup>

The UN Committee, in General Comment No. 20, reinforces the principle that children themselves hold the right to freedom of religion, rather than their parents. It stresses that as children mature, they should increasingly exercise autonomy in deciding whether to participate in religious activities.<sup>8</sup> The Committee highlights that schools and other institutions must respect this freedom, ensuring that participation in religious instruction or observance is a matter of genuine choice and that no child faces discrimination based on their beliefs. Additionally, in its 2023 Concluding Observations, the Committee made a strong recommendation to the UK and devolved governments to uphold this right by guaranteeing all children, regardless of age, the ability to freely express and practice their beliefs.<sup>9</sup> This includes repealing laws that make attendance at collective worship compulsory

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<sup>1</sup> Para 26(d) Committee on the Rights of the Child (2023). Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland, UN Doc. (CRC/C/GBR/CO/6-7: Para 6(d)).

<sup>2</sup> Convention on the Rights of the Child (UNCRC): Article: 5

<sup>3</sup> Convention on the Rights of the Child (UNCRC): Article: 12

<sup>4</sup> Convention on the Rights of the Child (UNCRC): Article: 12

<sup>5</sup> Convention on the Rights of the Child (UNCRC): Article: 5

<sup>6</sup> Convention on the Rights of the Child (UNCRC): Article: 29

<sup>7</sup> Convention on the Rights of the Child (UNCRC): Article: 14

<sup>8</sup> Para 43 - Committee on the Rights of the Child (2016). General comment No. 20 (2016) on the implementation of the rights of the child during adolescence (CRC/C/GC/20: Para: 43

<sup>9</sup> Para 26(d) Committee on the Rights of the Child (2023). Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland, UN Doc. (CRC/C/GBR/CO/6-7: Para 6(d)).

and introducing statutory guidance to ensure that every child, including those under 16, has the independent right to withdraw from religious classes or observance without requiring parental consent.

Furthermore, and as shown in our previous response to the Scottish Government consultation,<sup>10</sup> in practice, withdrawal from RO remains patchy and inconsistent and children continue to call for stronger measures in upholding their right to freedom of religion. Therefore, children should be granted the independent right to opt out of RO, ensuring their freedom of thought and belief is fully respected and allowing them to make choices that align with their own developing values. While the [Committee's Stage 1 report](#) acknowledges the importance of strengthening children's rights in relation to RO, its final recommendation is disappointing. A majority of members concluded that *"it would be more appropriate at this juncture to progress with the right for children to object to their parents' withdrawal...alone"*, and invited the Cabinet Secretary only to *"give further consideration to providing children with an independent right to withdrawal in future legislation."* Deferring children's rights to an unspecified future Bill delays children's ability to exercise their rights over their own beliefs. The current Bill is a clear opportunity to address this.

- **The Bill must be amended at Stage 2 to clearly grant children the independent right to decide whether to participate in RO.**

#### **Making a clear distinction between Religious Observance (RO) and Religious and Moral Education (RME):**

While the evidence from several stakeholders and the Cabinet Secretary has shown that RO and RME have different purposes, this distinction is not reflected in the Bill's wording. The ongoing conflation of RO and RME has led to inconsistency in how schools understand and seek to uphold children's rights.

We welcome the commitment to develop statutory guidance on withdrawal from RO. However, without explicit legislative distinction between the two terms, ensuring RME remains a core educational entitlement and RO participation is voluntary, children's rights to education (Article 29)<sup>11</sup> and to freedom of thought, conscience and religion (Article 14)<sup>12</sup> could still be undermined.

- **As recommended in the Committee's Stage 1 report, the Bill should be amended at Stage 2 to clearly distinguish between RO and RME and to ensure that RME remains as core curricular learning.** The guidance should draw a clear line between RO and RME and should be supported by accessible, child-friendly materials to help pupils understand their choices and rights.

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<sup>10</sup> Together (2025). Consultation response from Together (Scottish Alliance for Children's Rights).

<sup>11</sup> Convention on the Rights of the Child (UNCRC): Article: 29

<sup>12</sup> Convention on the Rights of the Child (UNCRC): Article: 14

## Compatibility with the UNCRC (Incorporation) (Scotland) Act 2024:

By inserting new provisions into the Education (Scotland) Act 1980, Part 1 of the Bill currently falls outside of the scope of the UNCRC (Incorporation) (Scotland) Act 2024. This means that children would not have a direct legal route to challenge rights breaches under these new measures.

Although we welcome Scottish Government's intention to work with UK Government to resolve these legislative issues in the longer term, this does not fix the immediate problem or guarantee that children's rights will be protected in the meantime. In practical terms, if a child's rights are not upheld when decisions are made under the amended section 9 of the 1980 Act, the child would not be able to rely on the UNCRC Act to challenge the decision or seek a remedy. Instead, they would have to pursue more complex and less accessible legal routes such as judicial review or claims under the European Convention on Human Rights (ECHR). This outcome would undermine the purpose of the UNCRC Act, which was designed to make children's rights legally enforceable in Scots law and to provide children with a clear and direct route to remedy when their rights are breached. It would also be inconsistent with the Scottish Government's previous commitment to avoid future amendments to UK Acts and instead to create stand-alone provisions in new Acts of the Scottish Parliament wherever possible, so that more legislation falls within scope of the UNCRC Act.<sup>13</sup> While we share the Committee's view that the provisions would have been stronger had they been introduced as standalone legislation, we do not accept that this rules out meaningful improvement at Stage 2. Given the importance of this issue in ensuring compatibility with the UNCRC, we were disappointed not to see the Committee make this recommendation.

- **The Bill must be amended at Stage 2 to bring Part 1 within the scope of the UNCRC (Incorporation) (Scotland) Act 2024, giving children a direct route to challenge rights breaches.** The provisions concerning children's involvement in decisions about withdrawal from RO should be enacted as standalone sections within this Bill, rather than as amendments to the Education (Scotland) Act 1980, ensuring they fall within the protections of the UNCRC Act.

## Part 2

We broadly understand the Scottish Government's rationale for the proposed Part 2 amendment to section 6 of the UNCRC (Incorporation) (Scotland) Act 2024. In our earlier written and oral evidence, we encouraged the Committee to take every opportunity to strengthen the Act so that any incompatibilities with the UNCRC can be identified and

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<sup>13</sup> Cabinet Secretary for Social Justice. Response to the Equalities, Human Rights and Civil Justice Committee on the reconsideration of the UNCRC (Incorporation) (Scotland) Bill, 28 November 2023. <https://www.parliament.scot/-/media/files/committees/equalities-human-rights-and-civil-justicecommittee/correspondence/2023/reconsideration-of-the-uncrc-incorporation-scotland-bill-cabsecsj-28-november-2023.pdf>

resolved and so that babies, children and young people have meaningful access to justice, remedy and redress. This includes the need for a clear and enforceable process for reporting and addressing incompatibilities, with progress set out transparently through the Children's Rights Scheme.

We remain concerned that Part 2, as currently drafted, does not yet provide an adequate level of transparency, accountability or access to remedy. For this reason, we support safeguards proposed by the Children and Young People's Commissioner Scotland and would encourage MSPs to support these amendments at Stage 2:

- **Extend incompatibility declarators:** Declarators should apply to both pre- and post-commencement Acts of the Scottish Parliament. This would ensure that children's rights are protected regardless of when legislation was passed. The change would mirror the approach taken under the Human Rights Act 1998, where declarators can apply to all Acts, while maintaining the UNCRC Act's existing power to strike down pre-commencement legislation.
- **Broaden the range of courts and tribunals able to issue declarators:** Courts and tribunals that regularly engage with children should be empowered to issue incompatibility declarators. This would enable rights breaches to be identified and remedied at the point where they most commonly occur.
- **Introduce a statutory reporting duty to report incompatibility:** Public authorities should be legally required to notify both the Scottish Government and the Children and Young People's Commissioner Scotland (CYPCS) when they become aware that existing legislation requires them to act in a way that is incompatible with the UNCRC. This would support Ministers in fulfilling their duty under the 2024 Act to identify and address potential rights risks and would help to ensure that incompatibilities are not overlooked or missed.
- **Strengthen ministerial duties following a declarator:** Ministers should be required to report to the Scottish Parliament within three months of a declarator being made. This report should assess the impact of the breach on children and copies should be provided to the court, the affected child and the CYPCS. A child-friendly version of the report should also be published to support transparency and accessibility.

Further scrutiny at Stage 2 would also give an opportunity to identify any further amendments or adjustments required to maintain the integrity of the UNCRC Act and protect children's access to justice.

### About Together (Scottish Alliance for Children's Rights)

Together (Scottish Alliance for Children's Rights) is an alliance that works to improve the awareness, understanding and implementation of the UN Convention on the Rights of the Child (UNCRC) and other international human rights treaties across Scotland. We have over 600 members ranging from large international and national non-governmental organisations (NGOs) through to small volunteer-led after school clubs and interested professionals. The views expressed in this submission are based on wide consultation with our members but may not necessarily reflect the specific views of every one of our member organisations. Views expressed separately should also be taken into account.

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