



Rights of Children and Young Persons (Wales) Measure 2011

2011 nawm 2

1 Duty to have due regard to Convention on the Rights of the Child

- (1) From the beginning of May 2014, the Welsh Ministers must, when exercising any of their functions, have due regard to the requirements of—
 - (a) Part I of the Convention,
 - (b) articles 1 to 7 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, except article 6(2), and
 - (c) articles 1 to 10 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
- (2) From the beginning of May 2012 until the end of April 2014, the Welsh Ministers must, in making any decision which falls within subsection (3), have due regard to the requirements of Part I of the Convention and the Protocols.
- (3) A decision falls within this subsection if it is a decision about any of the following—
 - (a) provision proposed to be included in an enactment;
 - (b) formulation of a new policy;
 - (c) a review of or change to an existing policy.
- (4) References in this Measure to the Welsh Ministers' duty under this section are—
 - (a) from the beginning of May 2012 until the end of April 2014, to the duty in subsection (2); and
 - (b) from the beginning of May 2014, to the duty in subsection (1).
- (5) This section applies to the First Minister as to the Welsh Ministers (and any reference in this Measure to the duty under this section is to be read accordingly).

2 The children's scheme

- (1) The Welsh Ministers must make a scheme (“the children's scheme”) setting out the arrangements they have made, or propose to make, for the purpose of securing compliance with the duty under section 1.

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- (2) The scheme may—
 - (a) require the Welsh Ministers to publish reports on the operation of the scheme or on any other matter mentioned in it (in addition to the reports required under section 4(1)), and
 - (b) specify matters which must be included in such reports or in reports under section 4(1).
- (3) The scheme may contain such other matters as the Welsh Ministers consider appropriate.
- (4) The Welsh Ministers must, within six months of the Committee making any suggestion or general recommendation under article 45(d) based on a UK report, consider whether to revise or remake the scheme in the light of that suggestion or recommendation.
- (5) The Welsh Ministers may revise or remake the scheme at any time.
- (6) In this section—
 - (a) “the Committee” means the Committee on the Rights of the Child established under article 43(1);
 - (b) “UK report” means a report submitted by the United Kingdom under article 44(1)(b); and
 - (c) any reference to an article is a reference to that article of the Convention.

3 Preparation and publication of the scheme

- (1) In preparing, remaking or revising the children's scheme, the Welsh Ministers must have regard to—
 - (a) any report of the Committee under article 44(5) or study undertaken under article 45(c);
 - (b) any other reports, suggestions, general recommendations or other documents issued by the Committee relating to the implementation of the Convention or the Protocols by the United Kingdom.
- (2) In preparing, remaking or revising the children's scheme, the Welsh Ministers may have regard to any other documents (whether or not issued by the Committee) and to any other matters which they consider to be relevant.
- (3) Before making, remaking or revising the children's scheme, the Welsh Ministers must publish a draft of—
 - (a) the scheme, or
 - (b) where they intend to revise the scheme, either the revisions or the scheme as revised.
- (4) In preparing a draft to be published under subsection (3), the Welsh Ministers must ensure that—
 - (a) children and young persons,
 - (b) the Children's Commissioner for Wales, and
 - (c) such other persons or bodies as the Welsh Ministers consider appropriate,
 are involved in the preparation of the draft.
- (5) Before making, remaking or revising the children's scheme, the Welsh Ministers must consult the following persons on the draft published under subsection (3)—

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- (a) children and young persons,
 - (b) the Children's Commissioner for Wales, and
 - (c) such other persons or bodies as the Welsh Ministers consider appropriate.
- (6) The Welsh Ministers must not make, remake or revise the children's scheme unless a draft of—
- (a) the scheme, or
 - (b) where they intend to revise the scheme, either the revisions or the scheme as revised,
- has been laid before, and approved by a resolution of, the Assembly.
- (7) The Welsh Ministers must lay a draft of the scheme before the Assembly (in accordance with subsection (6)(a)) on or before 31 March 2012.
- (8) The Welsh Ministers must publish the children's scheme when they make it and whenever they remake it; and, if they revise the scheme without remaking it, they must publish either the revisions or the scheme as revised (as they consider appropriate).
- (9) If the Welsh Ministers publish a scheme or revisions under subsection (8) they must lay a copy of the scheme or revisions before the Assembly.
- (10) In this section—
- (a) “the Committee” means the Committee on the Rights of the Child established under article 43(1); and
 - (b) any reference to an article is a reference to that article of the Convention.

4 Reports

- (1) The Welsh Ministers must—
- (a) on or before 31 January 2013, and
 - (b) at or before the end of each succeeding period of five years, or of such other length as may be specified in the children's scheme,
- publish a report on how they and the First Minister have complied with the duty under section 1.
- (2) The Welsh Ministers must publish such other reports as may be required in pursuance of section 2(2)(a).
- (3) The Welsh Ministers must lay before the Assembly a copy of each report published under subsection (1) or (2).

5 Duty to promote knowledge of the Convention

The Welsh Ministers must take such steps as are appropriate to promote knowledge and understanding amongst the public (including children) of the Convention and the Protocols.

6 Power to amend legislation etc

- (1) This section applies if a report published under section 4(1) or (2) concludes that it would be desirable, for the purpose of giving further or better effect to the rights and obligations set out in Part I of the Convention and the Protocols, to amend an enactment or prerogative instrument.

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- (2) The Welsh Ministers may by order make such amendments of that enactment or instrument as they consider appropriate in the light of the report.
- (3) But the Welsh Ministers may not make an order under subsection (2) unless the provision made by the order would be within the legislative competence for the time being of the Assembly.
- (4) Before making an order under subsection (2) the Welsh Ministers must consult such persons or bodies as they consider appropriate.

7 Application to young persons

- (1) The Welsh Ministers must consider whether and (if so) to what extent and with what amendments—
 - (a) the requirements of Part I of the Convention and the Protocols may be relevant to young persons, and
 - (b) the provisions of this Measure may be applied in relation to young persons.
- (2) The children's scheme must (when first made) include a statement of the Welsh Ministers' proposals to consult on the matters mentioned in subsection (1).
- (3) The Welsh Ministers may, when consulting on the matters mentioned in subsection (1), consult on any other matter relating to young persons that they consider appropriate.
- (4) The Welsh Ministers must publish a report of their conclusions under subsection (1).
- (5) The Welsh Ministers must lay before the Assembly a copy of any report published under subsection (4).
- (6) The Welsh Ministers may by order—
 - (a) apply any provision of this Measure in relation to young persons;
 - (b) make such other provision as they consider appropriate for giving effect, in relation to young persons, to any of the requirements of Part I of the Convention and the Protocols.
- (7) An order under subsection (6)(a) may make such modifications of the provisions applied by it as the Welsh Ministers consider appropriate.
- (8) Before making an order under subsection (6) the Welsh Ministers must—
 - (a) publish a draft of the order, and
 - (b) consult such persons or bodies as they consider appropriate on the draft.

8 The Convention on the Rights of the Child

- (1) In this Measure—
 - (a) “the Convention” means the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, and
 - (b) “the Protocols” means the Optional Protocols mentioned in section 1(1)(b) and (c).
- (2) In the Schedule to this Measure—
 - (a) Part 1 sets out the text of Part I of the Convention,

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- (b) Part 2 sets out the text of the articles of the Protocols referred to in section 1(1) (b) and (c), and
 - (c) Part 3 sets out the text of the declarations by the United Kingdom to the Convention and the Protocols.
- (3) For the purposes of this Measure, the Convention and Protocols are to be treated as having effect—
- (a) as set out for the time being in Parts 1 and 2 of the Schedule, but
 - (b) subject to any declaration or reservation as set out for the time being in Part 3 of the Schedule.
- (4) Subsection (5) applies if the United Kingdom has signed or otherwise indicated its agreement to—
- (a) an amendment to the Convention or to a protocol for the time being set out in the Schedule, or
 - (b) an additional protocol to the Convention.
- But that subsection does not apply if subsection (7) applies in relation to the amendment or protocol.
- (5) The Welsh Ministers may by order make amendments to section 1(1), 8(1), 8(2) or 8(3) of, or the Schedule to, this Measure to reflect—
- (a) the amendment or protocol, and
 - (b) any declaration or reservation by the United Kingdom to the amendment or protocol.
- (6) Subsection (7) applies if the United Kingdom has ratified—
- (a) an amendment to the Convention or to a protocol for the time being set out in the Schedule, or
 - (b) an additional protocol to the Convention.
- (7) The Welsh Ministers must by order make amendments to section 1(1), 8(1), 8(2) or 8(3) of, or the Schedule to, this Measure to reflect—
- (a) the amendment or protocol, and
 - (b) any declaration or reservation by the United Kingdom to the amendment or protocol.
- (8) The Welsh Ministers must by order make amendments to Part 3 of the Schedule to reflect any amendment to or withdrawal of any declaration or reservation for the time being set out in that Part.

9 Other interpretive provisions

In this Measure—

“the Assembly” (*y Cynulliad*) means the National Assembly for Wales;

“child” (*plentyn*) means a person who has not attained the age of 18;

“enactment” (*deddfiad*) means—

- (i) Act of Parliament,
- (ii) Measure or Act of the Assembly,
- (iii) subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978 (c. 30), or
- (iv) subordinate legislation made under any Measure or Act of the Assembly;

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“young person” (*pobl ifanc*) means a person who has attained the age of 18 but not the age of 25.

10 Orders

- (1) Any order under this Measure is to be made by statutory instrument.
- (2) A statutory instrument containing an order under section 6 or 7 must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Assembly.
- (3) No proceedings may take place in the Assembly for the purpose of approving the draft of an instrument containing an order under section 6 or 7 before the end of the period of 40 days as defined in subsection (6).
- (4) A draft of a statutory instrument containing an order under section 8 must be laid before the Assembly before the instrument is made and the instrument must not be made before the end of the period of 40 days as defined in subsection (6).
- (5) Section 6(1) of the Statutory Instruments Act 1946 does not apply to a draft of an instrument containing an order under section 8.
- (6) For the purposes of subsections (3) and (4), the period of 40 days begins on the day on which the draft instrument is laid before the Assembly, disregarding any time during which the Assembly is dissolved or is in recess for more than four days.

11 Commencement

This Measure comes into force at the end of the period of two months beginning on the day on which it is approved by Her Majesty in Council.

12 Short title

This Measure may be cited as the Rights of Children and Young Persons (Wales) Measure 2011.

Changes to legislation:

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