

RIGHTS OF CHILDREN AND YOUNG PERSONS (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8 – The Convention on the Rights of the Child

69. Subsection (1) - This explains what is meant by “the Convention” and “the Protocols” in this Measure.
70. “the Convention” means the United Nations Convention on the Rights of the Child which was adopted and opened for signature, ratification and accession by resolution 44/25 of the General Assembly of the United Nations, dated 20 November 1989.
71. “the Protocols” means Articles 1 to 7, excluding article 6(2), of the Optional Protocol to the Convention on the involvement of children in armed conflict, and Articles 1 to 10 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.
72. Article 6(2) of the Optional Protocol to the Convention on the involvement of children in armed conflict is the provision under which States have undertaken to make the principles and provisions of that Protocol widely known by adults and children. Section 5 of the Measure places the Welsh Ministers under a duty which is similar to that undertaking.
73. Subsection (2) – This provides that the Schedule to this Measure (“the Schedule”) sets out the text of:
- (1) Part I of the Convention (the Preamble, and Parts II and III which deal with procedural and similar matters in relation to the United Nations, have not been included) – this is in Part 1 of the Schedule,
 - (2) The two Optional Protocols as mentioned above – these are in Part 2 of the Schedule,
 - (3) Declarations by the United Kingdom relating to the Convention and its Optional Protocols – these are in Part 3 of the Schedule.
74. Subsection (3) – The effect of this is that whenever, for the purposes of this Measure (for example, where the Welsh Ministers are complying with the due regard duty in carrying out some particular function), the requirements of the Convention or the Protocols need to be referred to, then what must be referred to is the text which, at that particular time, is in Parts 1 and 2 of the Schedule.
75. However, that text must be read subject to any declarations or reservations which are set out at that particular time in Part 3 of the Schedule. At the time of enacting this Measure there are no reservations by the United Kingdom to the Convention and its Optional Protocols and therefore none appear in Part 3 of the Schedule. The powers and obligations of the Welsh Ministers to amend Part 3 appear in subsections (5), (7) and (8).

76. Subsections (4) and (5) – These provisions are relevant where the United Kingdom has signed or indicated agreement to, but not actually ratified:
- (i) an amendment to the Convention as set out at that particular time in Part 1 of the Schedule,
 - (ii) an amendment to the Protocols as set out at that particular time in Part 2 of the Schedule, or
 - (iii) a new Protocol.
77. In those circumstances the Welsh Ministers may amend section 1(1), 8(1), 8(2), 8(3) or the Schedule to reflect:
- (i) the amendment to the Convention or Protocols,
 - (ii) the new Protocol, or
 - (iii) any declaration or reservation by the United Kingdom to the amended Convention or Protocols, or to the new Protocol.
78. Subsections (6) and (7) - These provisions are relevant where the United Kingdom has ratified:
- (i) an amendment to the Convention as set out at that particular time in Part 1 of the Schedule,
 - (ii) an amendment to the Protocols as set out at that particular time in Part 2 of the Schedule, or
 - (iii) a new Protocol.
79. In those circumstances the Welsh Ministers must amend section 1(1), 8(1), 8(2), 8(3) or the Schedule to reflect:
- (i) the amendment to the Convention or Protocols,
 - (ii) the new Protocol, or
 - (iii) any declaration or reservation by the United Kingdom to the amended Convention or Protocols, or to the new Protocol.
80. Subsection (8) – The effect of this is that the Welsh Ministers are required to amend the text in Part 3 of the Schedule (declarations and reservations by the United Kingdom) so that Part 3 will reflect any changes to the declarations and reservations which it contains.
81. Any order under this section must be laid before the Assembly in draft before being made and a certain period of time must pass before it can be made (see section 10(4), 10(5) and 10(6)).