

GENDER REPRESENTATION ON PUBLIC BOARDS (AMENDMENT) (SCOTLAND) BILL

EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.3.2A of the Parliament’s Standing Orders, these Explanatory Notes are published to accompany the Gender Representation on Public Boards (Amendment) (Scotland) Bill, introduced in the Scottish Parliament on 7 November 2023.
2. The following other accompanying documents are published separately:
 - a Financial Memorandum (SP Bill 37–FM);
 - a Policy Memorandum (SP Bill 37–PM);
 - statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 37–LC).
3. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
4. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

THE BILL

5. The purpose of the Bill is to amend section 2 of the Gender Representation on Public Boards (Scotland) Act 2018 (“the 2018 Act”) to repeal the definition of “woman”.
6. This follows the decisions of the Court of Session of 18 February and 22 March 2022¹ (and which had effect from 19 April 2022) in the Judicial Review action and reclaiming motion brought by For Women Scotland. The Court found and declared that the definition of “woman” in section 2 of the 2018 Act was outside the legislative competence of the Scottish Parliament in that it related to reserved matters and was accordingly not law in terms of section 29(1) and (2)(b) of the Scotland Act 1998. The Court granted a decree of reduction of the definition.

¹ [2022csih4.pdf \(scotcourts.gov.uk\)](#); [Interlocutor.pdf \(forwomen.scot\)](#)

CROWN APPLICATION

7. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 (“ILRA”) provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. As such, this Bill applies to the Crown in the same way as it applies to everyone else. However, the Bill simply amends the 2018 Act by repealing a definition. The 2018 Act applies to the Crown in the same way as it applies to everyone else by virtue of ILRA. The Bill makes no change to the application of that enactment to the Crown.

COMMENTARY ON PROVISIONS

Section 1 – Amendment of 2018 Act

8. This section repeals the definition of “woman” in section 2 of the 2018 Act.

Section 2 – Commencement

9. This section provides that the provisions of the Bill come into force on the day after Royal Assent.

Section 3 – Short title

10. This section provides that the Bill, once enacted, will be referred to as the Gender Representation on Public Boards (Amendment) (Scotland) Act 2024.

This document relates to the Gender Representation on Public Boards (Amendment) (Scotland) Bill (SP Bill 37) as introduced in the Scottish Parliament on 7 November 2023

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