

EXPLANATORY NOTES

Gender Representation on Public Boards (Amendment) (Scotland) Act 2024 (asp 12)

£5.78

These notes relate to the Gender Representation on Public Boards (Amendment) (Scotland) Act 2024 (asp 12)
which received Royal Assent on 1 August 2024

GENDER REPRESENTATION ON PUBLIC BOARDS (AMENDMENT) (SCOTLAND) ACT 2024

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Gender Representation on Public Boards (Amendment) (Scotland) Act 2024. They do not form part of the Act and have not been endorsed by the Parliament.

2. These Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

OVERVIEW

3. The purpose of the Act is to amend section 2 of the Gender Representation on Public Boards (Scotland) Act 2018 ("the 2018 Act") to repeal the definition of "woman".

4. This follows the decisions of the Court of Session of 18 February and 22 March 2022[1] (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.

CROWN APPLICATION

5. 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 Act applies to the Crown in the same way as it applies to everyone else. However, the Act 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 Act makes no change to the application of that enactment to the Crown.

[1] For Women Scotland v the LA & the Scottish Ministers (judiciary.scot); Interlocutor.pdf (forwomen.scot)

COMMENTARY ON PROVISIONS

Section 1 – Amendment of 2018 Act

6. This section repeals the definition of "woman" in section 2 of the 2018 Act.

Section 2 - Commencement

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

Section 3 – Short title

8. This section provides that the Act will be referred to as the Gender Representation on Public Boards (Amendment) (Scotland) Act 2024.

PARLIAMENTARY HISTORY

9. The following is a list of the proceedings in the Scottish Parliament on the Bill for the Act and significant documents connected to the Act published by the Parliament during the Bill's parliamentary passage.

Proceedings and reports	***Reference***
INTRODUCTION	
Bill as Introduced (7 November 2023)	SP BILL 37 (Session 6 (2023))
Policy Memorandum (7 November 2023)	SP BILL 37 - PM (Session 6 (2023))
Explanatory Notes (7 November 2023)	SP BILL 37 - EN (Session 6 (2023))
Financial Memorandum (7 November 2023)	SP BILL 37 - FM (Session 6 (2023))
Statements on Legislative Competence (7 November 2023)	SP BILL 37 - LC (Session 6 (2023))
SPICe Briefing on the Gender Representation on Public Boards (Amendment) (Scotland) Bill (1 February 2024)	SB 24-06
STAGE 1	
Equalities, Human Rights and Civil Justice Committee	
Consideration in private (12 December 2023)	Minute of proceedings (12 December 2023)
Consideration in private (6 February 2024)	Minute of proceedings (6 February 2024)

Proceedings and reports	***Reference***
Evidence session (20 February 2024)	Minute of proceedings (20 February 2024)
Consideration in private (5 March 2024)	Minute of proceedings (5 March 2024)
Stage 1 report (15 March 2024)	SP Paper 552, 2nd Report, 2024 (Session 6)
Whole Parliament	
Stage 1 debate (26 March 2024)	Col 30-41
STAGE 2	
Stage 2 debate (30 April 2024)	Col 43
STAGE 3	
Stage 3 debate (20 June 2024)	Col 78 - 87
Bill as passed – No amendments were submitted at Stage 2 or Stage 3. The Bill as introduced is the final version of the Bill.	SP Bill 37 (Session 6 (2024))
ROYAL ASSENT	
Royal Assent (1 August 2024)	2024 asp 12

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E-mail: customer.services@tso.co.uk
Textphone: 0333 202 5077

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