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Gender Representation on Public Boards (Scotland) Bill: Consideration Prior to Stage 3

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The Gender Representation on Public Boards (Scotland) Bill will be debated at Stage 3 on 30 January 2018. This briefing provides information on its parliamentary consideration and lists the main amendments made at Stage 2.



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SB 18-04

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Introduction

The [Gender Representation on Public Boards \(Scotland\) Bill](#) was introduced by the Cabinet Secretary for Communities, Social Security and Equalities, Angela Constance MSP, on 15 June 2017 ¹. The Bill aims to improve the representation of women in non-executive positions on public boards. It sets a target for public boards, the 'gender representation objective', that women should make up at least 50% of non-executive board members. There is a duty to try and achieve the objective by 31 December 2022.

[SPICe briefing SB 17-64](#) provides more detail on the provisions in the Bill at introduction. ²

Parliamentary consideration

The Parliament's Equalities and Human Rights Committee was designated as lead committee for parliamentary consideration of the Bill. A majority of the Committee recommended that the general principles of the Bill be approved in its [stage 1 report](#), published on 20 November 2017 ³.

Two Conservative Party and Unionist Committee Members, Annie Wells MSP and Jamie Greene MSP, did not support the general principles of the Bill.

The Scottish Government provided a [written response](#) to the stage 1 report on 27 November 2017 ⁴. The Bill completed stage 1 with the [stage 1 debate](#) on 30 November 2017 ⁵. The general principles of the Bill were agreed with a vote of 71 For, 28 Against, and 0 Abstentions. Conservative Party and Unionist Members voted against the general principles of the Bill.

Stage 2 consideration was held on 21 December 2017. The Scottish Government supported amendments brought forward by Committee members, and brought forward its own amendments based on the Committee's stage 1 report recommendations. The Scottish Government's rationale was set out in a [letter to the Committee](#) ⁶.

Stage 3 proceedings (final consideration) will take place on 30 January 2018.

Key dates in the Parliament's consideration of the Bill are set out below:

- Bill introduced – 15 June 2017
- Stage 1: Equalities and Human Rights Committee evidence sessions – [21 September 2017](#) ⁷, [28 September 2017](#) ⁸, [5 October 2017](#) ⁹ and [26 October 2017](#) ¹⁰
- Stage 1: [Equalities and Human Rights Committee report published](#) ³ - 20 November 2017
- Stage 1: [plenary debate](#) ⁵ – 30 November 2017
- Stage 2: Equalities and Human Rights Committee – [21 December 2017](#) ¹¹

The Scottish Parliament provides further detail on the [stages of the Bill](#).

Stage 2 amendments

Main amendments agreed to at stage 2

Definition of woman

10 (Mary Fee) agreed without division	<p>Amendment 10 provides a definition of 'woman' in section 2 of the Bill. The intention is to ensure that the Bill is inclusive of trans women. It states that 'woman' includes those with the protected characteristic of gender reassignment, as defined in section 7 of the Equality Act 2010, who live as a woman and are proposing to undergo, are undergoing or have undergone a process for the purpose of becoming female.</p> <p>Not all trans women choose to apply for a gender recognition certificate. This amendment means that the Bill is inclusive of trans women who do not have a gender recognition certificate.</p>
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Meaning of 'characteristic'

1 (Alex Cole-Hamilton) agreed without division	<p>The 'tie-breaker' provision at section 4 is subject to an exception (section 4 (4)). The Bill allows for the position to be given to someone who is not a woman, where it can be justified on the basis of a 'characteristic' or 'situation' particular to another candidate. For example, this <i>might</i> mean that where a man and a woman are equally qualified, the man may be given the position if he has another under-represented protected characteristic.</p> <p>There had been some uncertainty expressed during stage 1 about the meaning of 'characteristic'.</p> <p>This amendment clarifies that the reference to a 'characteristic' includes a 'protected characteristic' as defined in the Equality Act 2010.</p>
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Encouragement of applications

11 (Alex Cole-Hamilton) agreed without division	<p>Section 5 requires the appointing person and the listed public authorities to take steps to encourage women to apply to become non-executive board members.</p> <p>This amendment clarifies that this does not prevent the appointing person or listed public authorities from taking steps to encourage people with other protected characteristics.</p>
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Guidance

3 (Angela Constance) agreed without division	<p>This amendment requires Scottish Ministers to publish guidance on the operation of the Act. It must cover the functions of the appointing person and the public authority, including the 'tie-breaker' provision.</p> <p>This amendment was made in response to a recommendation from the Committee.</p>
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Reports

4,5,6,7 (Angela Constance) agreed with some division	<p>This group of amendments will require Scottish Ministers to lay before the Scottish Parliament reports on the operation of the Act, in accordance with provision made in regulations and at intervals of no more than two years.</p> <p>The biennial reporting will ensure that reporting requirements can be aligned with existing reporting requirements which flow from the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, as amended.</p> <p>This amendment was made in response to recommendations from the Committee.</p>
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Procedures for regulations

8,9 (Angela Constance) agreed without division	<p>This amendment ensures that regulations made under section 8 will be made under the affirmative procedure. Section 8 allows for regulations to modify schedule 1 which lists the public authorities subject to the Bill.</p> <p>This amendment was made in response to recommendations from the Delegated Powers and Law Reform Committee and the Equalities and Human Rights Committee.</p>
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