

Gaelic Language (Scotland) Bill

[CONSULTATION DRAFT]

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Gaelic Language (Scotland) Bill

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An Act of the Scottish Parliament to establish a body having functions exercisable with a view to securing the status of the Gaelic language as one of the languages of Scotland, including the function of preparing a national Gaelic language plan; to require certain public bodies, where they consider it appropriate, to prepare and publish plans in relation to the use of the Gaelic language in connection with the exercise of their functions and to maintain and implement such plans; and for connected purposes.

Bòrd na Gàidhlig

1 Constitution and functions of Bòrd na Gàidhlig

- (1) There is established a body corporate to be known as Bòrd na Gàidhlig (in this Act referred to as “the Bòrd”).
- (2) The Bòrd has the general functions of—
 - (a) promoting, and facilitating the promotion of, the use and understanding of the Gaelic language, and
 - (b) advising the Scottish Ministers on matters relating to the Gaelic language and Gaelic culture.
- (3) The functions conferred on the Bòrd by this Act are to be exercised with a view to securing the status of the Gaelic language as one of the languages of Scotland through—
 - (a) increasing the number of persons who are able to speak or understand the Gaelic language,
 - (b) encouraging the use of the Gaelic language, and
 - (c) facilitating access, in Scotland and elsewhere, to the Gaelic language and Gaelic culture.
- (4) Schedule 1 makes further provision with respect to the status, constitution, proceedings, etc. of the Bòrd.

2 National Gaelic language plan

- (1) The Bòrd must, within 12 months of the commencement of this section, prepare and submit to the Scottish Ministers a national Gaelic language plan which must include proposals for promoting, and facilitating the promotion of, the Gaelic language.
- (2) In preparing the plan, the Bòrd must consult such persons as appear to it to have an interest in the plan.

- (3) The Scottish Ministers may—
 - (a) approve the plan, or
 - (b) make such comments on the plan as they think fit and require the Bòrd to prepare and submit to them, within such period as they may specify, a further plan taking account of those comments.
- (4) On the plan being approved by the Scottish Ministers, the Bòrd must publish it in such manner as it thinks fit.
- (5) The Scottish Ministers may, at any time, request the Bòrd to prepare and submit to them a new national Gaelic language plan.
- (6) Subsections (1) to (4) apply to a plan prepared in pursuance of a request under subsection (5) as they apply to a plan prepared in pursuance of subsection (1), but with the substitution, in subsection (1), of a reference to the date of the request for the reference to the commencement of this section.

3 Gaelic language plans: guidance, assistance, etc.

- (1) The Bòrd must, from time to time when it thinks fit, prepare and submit to the Scottish Ministers guidance for public bodies to which schedule 2 applies in relation to the exercise of their functions under this Act.
- (2) In preparing the guidance, the Bòrd must consult such persons as appear to it to have an interest in the guidance.
- (3) The Scottish Ministers may—
 - (a) approve the guidance with or without modifications, or
 - (b) reject the guidance and, where they do so, may require the Bòrd to prepare and submit to them, within such period as they may specify, revised guidance.
- (4) On such guidance being approved by the Scottish Ministers, the Bòrd must publish it in such manner as it thinks fit.
- (5) The Bòrd must, on the request of a public body to which schedule 2 applies, provide the body with advice and assistance in relation to the exercise by the body of its functions under this Act.

4 Directions and guidance

- (1) The Scottish Ministers may give the Bòrd directions (of a general or specific character) and guidance as to the exercise of the Bòrd's functions.
- (2) The Bòrd must comply with any such direction and have regard to any such guidance.

Gaelic language plans

5 Gaelic language plans

- (1) Every public body to which schedule 2 applies must, within the period mentioned in subsection (2)—
 - (a) determine, having regard to the matters mentioned in subsection (5), whether it is appropriate to prepare and publish a Gaelic language plan, and

- (b) if the body determines that it is appropriate to do so, prepare and publish such a plan.
- (2) The period referred to in subsection (1) is the period of 2 years, or such other period as the Scottish Ministers may by order specify—
 - (a) from the commencement of this section, or
 - (b) if later, from the day on which schedule 2 first applies to the public body in question.
- (3) A Gaelic language plan must—
 - (a) specify how the public body intends the Gaelic language to be used in connection with the exercise of that body's functions, and
 - (b) contain such other information as may be prescribed in regulations made under section 6(3).
- (4) A public body, in determining whether to include in a Gaelic language plan under subsection (1) measures to facilitate the use of the Gaelic language in connection with the exercise of any of the body's functions (in addition to any measures required to be included by virtue of regulations made under section 6(3)), must have regard to the matters mentioned in subsection (5).
- (5) The matters referred to in subsections (1) and (4) are—
 - (a) the extent to which the persons in relation to whom the public body's functions are exercisable use the Gaelic language,
 - (b) any representations made to the public body in relation to the use of the Gaelic language in connection with the exercise of those functions,
 - (c) any guidance given by the Scottish Ministers,
 - (d) any guidance given by Bòrd na Gàidhlig and approved by the Scottish Ministers.
- (6) In preparing a Gaelic language plan under subsection (1), a public body must consult persons appearing to it to have an interest in the plan.
- (7) A public body which has published a Gaelic language plan under subsection (1) must implement the measures set out in it.

6 Gaelic language plans: further provision

- (1) Where a public body determines under section 5(1) or 7(5) that it is not appropriate to prepare and publish a Gaelic language plan, it must notify the Bòrd of the reasons for that determination.
- (2) If the Bòrd is not satisfied with those reasons, it may send a report to the Scottish Ministers giving the reasons for such dissatisfaction.
- (3) The Scottish Ministers may by regulations make further provision in relation to the content of Gaelic language plans.
- (4) Such regulations may make different provision for different purposes or for different types of public body.

7 Review

- (1) A public body which has published a Gaelic language plan under section 5(1) must, no later than five years after the date of publication of the plan—
 - (a) review the plan,
 - (b) make such amendments (if any) to the plan as the body considers necessary or expedient, and
 - (c) republish the plan (whether or not amended).
- (2) Subsections (3) to (6) of section 5 apply in relation to the review and amendment of a plan under subsection (1) of this section as they apply in relation to the preparation of a plan under subsection (1) of that section.
- (3) Subsection (7) of section 5 and subsections (1) and (4) of this section apply in relation to a Gaelic language plan republished under subsection (1)(c) of this section as they apply in relation to a plan published under subsection (1)(b) of that section.
- (4) A public body may, without undertaking a review, at any time amend a Gaelic language plan published under section 5(1) (for example, by correcting an error or by updating factual information which has changed) in a way that does not alter the plan substantially.
- (5) Where a public body determines under section 5(1) that it is not appropriate to prepare and publish a Gaelic language plan it must, no later than five years after the date of the determination, review that determination.

8 Public bodies to which schedule 2 applies

- (1) The public bodies to which schedule 2 applies are the persons specified or of a description specified in that schedule.
- (2) The Scottish Ministers may by order amend that schedule by adding, removing or amending any entry.

General

9 Interpretation

- (1) In this Act—
 - “the Gaelic language” means the Gaelic language as spoken in Scotland,
 - “Gaelic culture” means the shared traditions, attitudes, ideas and identity of those who speak or understand the Gaelic language.
- (2) For the purposes of this Act, the functions of a public body include—
 - (a) functions relating to its internal processes, and
 - (b) the provision by the public body of any services to the public.

10 Regulations and orders

- (1) Regulations and orders under this Act are to be made by statutory instrument.
- (2) An instrument containing an order under section 5(2) or 8(2) or regulations under section 6(3) is subject to annulment in pursuance of a resolution of the Scottish Parliament.

11 Consequential amendments

Schedule 3 (consequential amendments) has effect.

12 Short title and commencement

- (1) This Act may be cited as the Gaelic Language (Scotland) Act.
- (2) This Act (except section 10 and this section) comes into force on such day as the Scottish Ministers may by order appoint.
- (3) An order under subsection (2) may include such incidental, supplemental, consequential, transitional, transitory or saving provision in connection with the coming into force of the provisions brought into force as the Scottish Ministers think fit.

SCHEDULE 1
(introduced by section 1(4))

BÒRD NA GÀIDHLIG

Status

- 1 The Bòrd—
- (a) is not to be regarded as the servant or agent of the Crown,
 - (b) does not enjoy any status, immunity or privilege of the Crown,
- and the Bòrd's property is not to be regarded as property of, or held on behalf of, the Crown.

Membership

- 2 (1) The Bòrd is to consist of—
- (a) no fewer than 5, nor more than 8, ordinary members, and
 - (b) a person whose function is to chair the Bòrd, (in this schedule referred to as the “Cathraiche”) who is to be an ex officio member,
- appointed by the Scottish Ministers.
- (2) Each ordinary member is to be appointed for a period of 3 years.
- (3) The Cathraiche is to be appointed for a period of 4 years.
- (4) Each member—
- (a) may, by written notice to the Scottish Ministers, resign as a member,
 - (b) in other respects, holds and vacates office on such terms and conditions as the Scottish Ministers may determine,
 - (c) on the expiry of the appointment, may be reappointed for a single further consecutive period of the same length as the initial appointment.
- (5) The Scottish Ministers may, by written notice, remove a member from office if they are satisfied that—
- (a) the member's estate has been sequestrated or the member has been adjudged bankrupt, has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract, or
 - (b) the member—
 - (i) is incapacitated as a result of physical or mental illness,
 - (ii) has been absent from meetings of the Bòrd for a period longer than three consecutive months without the permission of the Bòrd, or
 - (iii) is otherwise unfit or unable to discharge the member's functions as a member.
- 3 A person may not be appointed or continue as a member of the Bòrd if that person is or (as the case may be) becomes—
- (a) a member of the House of Commons,
 - (b) a member of the Scottish Parliament, or

- (c) a member of the European Parliament.

Remuneration and allowances

- 4 The Bòrd must pay the Cathraiche and the ordinary members such remuneration and allowances as the Scottish Ministers may determine.

Chief executive and other staff

- 5 (1) The Scottish Ministers must, after consultation with the Cathraiche, make the first appointment of chief executive of Bòrd na Gàidhlig on such terms and conditions as the Scottish Ministers may determine.
- (2) The Bòrd may, with the approval of the Scottish Ministers, make subsequent appointments to the post of chief executive on such terms and conditions as it may with the approval of the Scottish Ministers determine.
- (3) The Bòrd may appoint on such terms and conditions as it may with the approval of the Scottish Ministers determine such other employees as it considers appropriate.
- (4) The Bòrd must, as regards such of its employees as it may with the approval of the Scottish Ministers determine, make such arrangements as it considers appropriate for providing, to or in respect of those employees, pensions, allowances or gratuities.
- (5) Such arrangements—
- (a) may include the establishment and administration, by the Bòrd or otherwise, of one or more pension schemes, and
 - (b) must, in any case, be approved by the Scottish Ministers.
- (6) The reference in sub-paragraph (4) to the provision of pensions, allowances or gratuities includes a reference to their provision by way of compensation for loss of office or employment or loss or diminution of emoluments.

Committees

- 6 The Bòrd may establish committees for or in connection with such of its functions as it may determine.

Proceedings and meetings

- 7 (1) The Bòrd may determine its own procedure, including a quorum for meetings.
- (2) The validity of any proceedings of the Bòrd and of any committee established by it is not affected by any vacancy among its members or the members of the committee or by any defect in the appointment of any member of the Bòrd.
- (3) Members of the Scottish Executive, junior Scottish Ministers and persons authorised by the Scottish Ministers may attend and take part in meetings of the Bòrd and any committee established by it, but are not entitled to vote at such meetings.

Accounts and annual report

- 8 The Bòrd must—

- (a) prepare for each financial year, in accordance with directions given by the Scottish Ministers, an account of the Bòrd's expenditure and receipts, and
 - (b) send the account, by such time as the Scottish Ministers may direct, to the Auditor General for Scotland for auditing.
- 9 As soon as practicable after the end of each financial year, the Bòrd must prepare a report on the exercise of its functions during that year and must—
- (a) send a copy of the report to the Scottish Ministers and publish the report, and
 - (b) lay the report before the Parliament.

Delegation of functions by the Scottish Ministers

- 10 (1) The Scottish Ministers may make arrangements for any of their functions to be exercised on their behalf, subject to such conditions as they may impose, by the Bòrd; and the Bòrd may exercise those functions accordingly.
- (2) An arrangement under sub-paragraph (1) does not affect the responsibility of the Scottish Ministers for the exercise of their functions.
 - (3) In sub-paragraph (1), “functions” does not include the function of making, confirming or approving subordinate legislation.

General powers

- 11 The Bòrd may do anything (whether in Scotland or elsewhere) which is conducive or incidental to the exercise of its functions, and may in particular—
- (a) engage in any business or undertaking,
 - (b) form or promote (whether alone or with others) companies (within the meaning of the Companies Act 1985 (c.6)),
 - (c) form partnerships with others,
 - (d) with the consent of the Scottish Ministers, establish or take part in the setting up of organisations having functions similar to the functions of the Bòrd,
 - (e) enter into contracts,
 - (f) make grants and loans,
 - (g) with the consent of the Scottish Ministers as to amount, make charges for the provision of advice or other services,
 - (h) accept gifts of money or other property,
 - (i) invest sums not immediately required in relation to the exercise of its functions.

Grants

- 12 (1) The Scottish Ministers may make grants to the Bòrd for such purposes and of such amounts as they think fit.
- (2) Any grant made under sub-paragraph (1) may be made subject to such conditions as the Scottish Ministers think fit.
 - (3) The Bòrd does not have power to borrow money or to give guarantees.

SCHEDULE 2
(introduced by section 8(1))

GAELIC LANGUAGE PLANS: PUBLIC BODIES

Scottish Parliament and Scottish Administration

- 1 The Parliamentary corporation.
- 2 Any member of the Scottish Executive.
- 3 Any other office holder in the Scottish Administration.

Health service

- 4 Any health service body, that is to say—
 - (a) any Health Board,
 - (b) any Special Health Board,
 - (c) the Common Services Agency for the Scottish Health Service,
 - (d) the Scottish Dental Practice Board,
 - (e) the Mental Welfare Commission for Scotland.

Local government etc.

- 5 Any local authority.
- 6 Any committee, joint committee or joint board the members of which, other than ex officio members, are appointed by one or more local authorities.
- 7 Any person who, by virtue of section 56(1) of the Local Government (Scotland) Act 1973 (c.65), discharges any of the functions of a local authority.
- 8 Any licensing board within the meaning of the Licensing (Scotland) Act 1976 (c.66).
- 9 The Strathclyde Passenger Transport Authority.
- 10 Any National Park authority.
- 11 Any joint board constituted by an administration order under section 36 of the Fire Services Act 1947 (c.41) or section 147 of the Local Government (Scotland) Act 1973 (c.65).
- 12 Any joint police board constituted by an amalgamation scheme made or approved under the Police (Scotland) Act 1967 (c.77).
- 13 Any Children's Panel Advisory Committee formed under paragraph 3, or joint advisory committee formed under paragraph 8, of Schedule 1 to the Children (Scotland) Act 1995 (c.36).
- 14 Any joint committee, for the administration of superannuation schemes for persons employed in local government service or teachers, established by regulations under section 7 or 9 of the Superannuation Act 1972 (c.11) respectively.

Housing

- 15 Any registered social landlord within the meaning of the Housing (Scotland) Act 2001 (asp 10).

Scottish public authorities

- 16 The Accounts Commission for Scotland.
- 17 Audit Scotland.
- 18 The Auditor General for Scotland.
- 19 The Chief Investigating Officer established by section 9(1) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).
- 20 The Crofters Commission.
- 21 The Deer Commission for Scotland.
- 22 The General Teaching Council for Scotland.
- 23 Highlands and Islands Enterprise.
- 24 Learning and Teaching Scotland.
- 25 Any local enterprise company, that is to say any company (within the meaning of the Companies Act 1985 (c.6))—
- (a) which is a wholly owned subsidiary (within the meaning of that Act) of Scottish Enterprise or Highlands and Islands Enterprise, and
 - (b) with which an agreement (not being one which has terminated) has been made in pursuance of section 19 of the Enterprise and New Towns (Scotland) Act 1990 (c.35) by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that company of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise.
- 26 The Local Government Boundary Commission for Scotland.
- 27 The Board of Trustees for the National Galleries of Scotland.
- 28 The Trustees of the National Library of Scotland.
- 29 The Board of Trustees of the National Museums of Scotland.
- 30 The Parole Board for Scotland.
- 31 The Board of Trustees of the Royal Botanic Garden, Edinburgh.
- 32 The Royal Commission on the Ancient and Historical Monuments of Scotland.
- 33 The Scottish Agricultural Wages Board.
- 34 The Scottish Arts Council.
- 35 The Scottish Children's Reporter Administration.
- 36 The Scottish Commission for the Regulation of Care.
- 37 Scottish Enterprise.
- 38 The Scottish Environment Protection Agency.
- 39 The Scottish Further Education Funding Council.
- 40 The Scottish Further Education Unit.

- 41 The Scottish Higher Education Funding Council.
- 42 The Scottish Hospital Endowments Research Trust.
- 43 The Scottish Legal Aid Board.
- 44 Scottish Natural Heritage.
- 45 The Scottish Qualifications Authority.
- 46 Scottish Screen.
- 47 The Scottish Social Services Council.
- 48 The Scottish Sports Council.
- 49 The Scottish Tourist Board.
- 50 The Standards Commission for Scotland.
- 51 The Water Industry Commissioner for Scotland.
- 52 Any holder of an office—
- (a) established by or under any enactment, and
 - (b) appointments to, or designations of, which are made by a body mentioned in paragraph 5 or 6 of this schedule.

SCHEDULE 3
(introduced by section 11)

CONSEQUENTIAL AMENDMENTS

Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)

- 1 In schedule 3 to the Ethical Standards in Public Life etc. (Scotland) Act 2000 (devolved public bodies) insert at the appropriate place “Bòrd na Gàidhlig”.

Scottish Public Services Ombudsman Act 2002 (asp 11)

- 2 In Part 2 of schedule 2 to the Scottish Public Services Ombudsman Act 2002 (listed authorities amendable by Order in Council) insert at the appropriate place “Bòrd na Gàidhlig”.