

GAELIC LANGUAGE (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

General

Section 10 – Interpretation

54. This section provides definitions of key terms used in the Act.

Section 11 – Regulations and orders

55. This section provides that regulations under section 3(7) and orders under paragraph 2(2) of schedule 1 are to be made by statutory instrument which is subject to the negative resolution procedure in the Scottish Parliament.

Section 12 – Consequential amendments

56. This section introduces schedule 2 which makes modifications of various enactments so as to include in them references to the Bòrd.

Section 13 – Short title and commencement

57. Provision is made for the Scottish Ministers by order to appoint days when sections of the Act (other than sections 11 and 13) are to come into force. Sections 11 and 13 come into force on Royal Assent.
58. Subsection (3) enables a commencement order to include transitional, transitory or saving provision.

Schedule 1 – Bòrd na Gàidhlig

Paragraph 1 – Status

59. Provision is made under this paragraph making clear that the Bòrd is not a Crown body.

Paragraph 2 – Membership

60. Sub-paragraph (1) provides that the members of the Bòrd are to be appointed by the Scottish Ministers. The Bòrd is to have between 5 and 11 ordinary members and a further ex officio member (the Cathraiche) who is to chair meetings of the Bòrd.
61. Sub-paragraph (2) gives the Scottish Ministers the power by order to increase or decrease the maximum or minimum number of members. A statutory instrument containing such an order is subject to the negative resolution procedure in the Scottish Parliament.
62. Sub-paragraph (4) requires the Bòrd to elect from within its number a person to act as Cathraiche if the office of Cathraiche becomes vacant.

63. Sub-paragraph (5) provides that members of the Bòrd hold office on such terms and conditions as the Scottish Ministers may decide and may resign from the Bòrd by written notice to Ministers.
64. Sub-paragraph (6) makes provision for the circumstances in which the Scottish Ministers may remove a member of the Bòrd from office.

Paragraph 3 – Disqualification

65. **Paragraph 3** sets out the various persons who are disqualified from appointment to, or from holding office as a member of, the Bòrd.

Paragraph 4 – Remuneration and allowances

66. **Paragraph 4** provides for Bòrd members to receive such remuneration and allowances as may be determined by the Scottish Ministers.

Paragraph 5 – Ceannard and other staff

67. **Paragraph 5** makes provision for the Bòrd to appoint staff, including a Chief Executive (“Ceannard”).

Paragraph 6 – Committees

68. **Paragraph 6** enables the Bòrd to establish such committees as it requires to carry out its functions, and to co-opt non-members of the Bòrd on to those committees. Co-opted members cannot, however, vote at committee meetings.

Paragraph 7 – Proceedings and meetings

69. Sub-paragraph (1) enables the Bòrd to determine its own and its committees’ procedure for meetings.
70. Sub-paragraph (2) provides that the validity of any proceedings of the Bòrd cannot be challenged on the grounds that there was a defect in any of the appointments to the Bòrd or by a vacancy in the Bòrd’s membership.
71. Sub-paragraph (3) provides for the Scottish Ministers, or their representatives, to attend the Bòrd and committee meetings but they are unable to vote at those meetings.

Paragraphs 8 and 9 – Accounts and annual report

72. These paragraphs set out in general terms requirements concerning the accounts and reports which must be prepared by the Bòrd.

Paragraph 10 – Delegation of functions by the Scottish Ministers

73. This paragraph enables the Scottish Ministers to delegate any of their functions to the Bòrd (other than the function of making, confirming or approving subordinate legislation) relating to the Gaelic language, culture and education.

Paragraph 11 – General powers

74. This paragraph sets out the activities the Bòrd may engage in in furtherance of its functions.
75. Sub-paragraph (2) specifies that the Bòrd may not make charges for the provision of advice and assistance to relevant public authorities in connection with the application of the Act to them.

Paragraph 12 – Grants

76. Sub-paragraphs (1) and (2) provide for the Scottish Ministers to make grants to the Bòrd. The purpose and amount of a grant, and any conditions attaching to it, may be decided by the Scottish Ministers.
77. Sub-paragraph (3) specifies that the Bòrd does not have the power to borrow money or to give guarantees.