

# Gender Recognition Reform (Scotland) Bill

## [As Amended at Stage 2]

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## Supplementary Financial Memorandum

### Introduction

1. As required under Rule 9.7.8B of the Parliament's Standing Orders, this Supplementary Financial Memorandum is published to accompany the Gender Recognition Reform (Scotland) Bill (introduced in the Scottish Parliament on 2 March 2022) as amended at Stage 2.
2. The purpose of this Supplementary Financial Memorandum is to set out the expected costs associated with amendments made at Stage 2. It has been prepared by the Scottish Government, does not form part of the Bill and has not been endorsed by the Parliament.

### Background

3. Of the new provisions introduced to the Bill at Stage 2, the only ones identified as being likely to give rise to more than marginal costs are (a) new section 8V of the Gender Recognition Act 2004 (the 2004 Act) which requires the Registrar General for Scotland to publish information about the application process, and (b) the four new sections relating to duties placed on the Scottish Ministers to review and report on various aspects of the operation and/or impact of the Bill. These costs are all expected to fall on the Scottish Administration.

## Costs on the Scottish Administration

### Cost on the Registrar General for Scotland

4. As noted in the Financial Memorandum published on the introduction of the Bill<sup>1</sup>, the Scottish Government has always intended to work with the National Records of Scotland to provide information for applicants about applying for legal gender recognition. New section 11A puts on a statutory basis the information that must be published about application process. The NRS considers that one-off design and

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<sup>1</sup> Available at <https://www.parliament.scot/bills-and-laws/bills/gender-recognition-reform-scotland-bill/introduced>

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printing costs associated with the provision of this information in accessible formats are estimated to be in the region of £10,000.

## Costs on the Scottish Government

5. The Bill places a duty on Scottish Minister to prepare and publish a number of different reports on the impact of the Bill. Several of these requirements call on Scottish Ministers to report no later than 3 years after section 2 comes into force. The duties placed on the Scottish Ministers under this timeframe are as follows:

- a review of the impacts on trans people of the period a trans person is required to live in the acquired gender under section 8C(1)(a)(iii) of the 2004 Act, and the reflection period under section 8B of the 2004 Act;
- a report on the impact of this Bill on the placement of transgender people within prisons, and in particular any change in the number of trans women residing in women's prisons, trans women residing in men's prisons, trans men residing in women's prisons, and trans men residing in men's prisons;
- a review of the operation of section 22 of the 2004 Act in light of changes made by this Bill considering, in particular whether the criminal offences remain appropriate, and whether any further exceptions are necessary under subsection (4) of section 22 of that Act.

6. The Scottish Government will, therefore, need to cover staff costs associated with each of these reviews. It is estimated that the preparation of one report will account for 0.25 Full Time Equivalent (FTE) for two Scottish Government policy officials in the year immediately preceding publication of the report, along with 0.15 Full Time Equivalent (FTE) Scottish Government analytical support over the same period. These costs are set out in the table below, based on 2021/22 average staffing costs:

<b>Staff Resource Required</b>	<b>Scottish Government Policy Area</b>	<b>Total Staff Cost</b>
0.25	Civil Justice & Legal System	£35,000
0.15	Equality and Social Justice Analysis	£21,000
<b>TOTAL</b>		<b>£56,000</b>

7. The total costs to the Scottish Administration resulting from these three review requirements are therefore estimated to be in the region of £168,000. In terms of the costs of publishing these reports, the expected costs would be in the region of £2,000 for each, totalling approximately £6,000. Based on current projected timescales for implementation which would see the substantive provisions of the Bill being brought into force in early 2024, around 12 months after Royal Assent, it is anticipated that these costs will fall in the financial year 2026/27.

8. A further reporting requirement is placed on Scottish Ministers in relation to reviewing the operation of the Bill. This requirement states that the review should be

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initiated no later than 3 years after section 2 comes into force, and that a report must be laid before Parliament no later than 2 years after the review commences.

9. This review of the operation of the Bill must consider in particular:
- whether the Registrar General for Scotland has been able to carry out the functions specified in the Act effectively,
  - how many people have obtained gender recognition certificates,
  - the operation of section 22 of the 2004 Act in light of changes made by this Act considering, in particular, whether further exceptions are necessary under subsection (4) of that Act,
  - if any further provision related to the Act is being considered by the Scottish Ministers, in particular any provision related to gender recognition for non-binary people, and
  - anything else that the Scottish Ministers consider to be relevant.

10. It is estimated that the preparation of this report will account for 0.25 Full Time Equivalent (FTE) for two Scottish Government policy officials in each of the two years of the review period, along with 0.30 FTE Scottish Government analytical support over the same period.

<b>Staff Resource Required</b>	<b>Scottish Government Policy Area</b>	<b>Total Staff Cost</b>
0.50	Civil Justice & Legal System	£70,000
0.30	Equality and Social Justice Analysis	£42,000
<b>TOTAL</b>		<b>£112,000</b>

11. The total costs on the Scottish Government resulting from this duty to review the operation of the Act is therefore estimated to be in the region of £112,000, with a further £2,000 in publication costs. Based on current projected timescales for implementation outlined above, it is anticipated that these costs will fall in the financial years 2027/28 and 2028/29.

12. Whilst it is possible that the work relating to this review will be of a similar nature to that covered in the other reviews, these estimates have not taken into account any savings that might occur from such possible duplication of work.

13. In total, the costs associated with these amendments are therefore £10,000 falling on the NRS in 2023/24 or 2024/25, £174,000 (£168,000 + £6,000) falling on the Scottish Government in 2026/27 and a further £114,000 (£112,000 + £2,000) falling on the Scottish Government across 2027/28 and 2028/29, amounting to £298,000.

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