

Directive – 2022-2381

Information Note from the Department

1. Directive Title

Directive (EU) 2022/2381 of the European Parliament and of the Council of 23 November 2022 on improving the gender balance among directors of listed companies and related measures (Text with EEA relevance).

2. Transposition Deadline

28/12/2024

3. Anticipated Transposition date

28/12/2024

Include information on any specific administrative, policy or legislative changes required before the Directive may be transposed.

4. COM number of original Commission proposal

COM (2021)614

5. Department with primary responsibility

Department of Children, Equality, Disability, Integration and Youth

6. Other Departments involved

DETE

7. Background to, short summary and aim of the directive

In November 2012, the European Commission published a proposal for a Directive based on Article 157(3) TFEU, to introduce measures aiming to increase the representation of women on corporate boards in the EU.

The proposal did not meet agreement at the time, although discussions under a number of Presidencies resulted in the development of a compromise text in 2017, since which time the proposal did not advance due to a blocking minority either opposed to the measure itself or unwilling to support it. However, a number of Member States altered their position and political agreement on the final text was reached in June 2022 following trilogue negotiations between the Council, the European Parliament and the Commission.

The Directive requires Member States to ensure that, by 30 June 2026, in listed companies:

- a) members of the under-represented sex hold at least 40% of non-executive director positions; or,
- b) members of the under-represented sex hold at least 33% of all director positions, including both executive and non-executive directors.

Listed companies which do not meet these objectives should be required to adjust their selection process for these positions. Listed companies will be required publish information on the gender balance on their board publicly.

The Directive also includes a suspension clause under which Member States may suspend the application of the provisions where there are existing domestic initiatives which meet certain criteria; or where national legislation exists to enforce the above targets for listed companies, with such companies not covered by legislation setting individual gender balance targets for all director positions.

8. Legal basis of the Directive

Article 157(3) TFEU

9. Category of Directive

Little/Some/major significance. Please also indicate if the Directive is new/codifying/amending?

Some significance

New Directive

10. Implications for Ireland (including details of regulatory impact assessments carried out in Ireland, if required)

A Regulatory Impact Assessment was carried out in 2014.

The detailed implications of the Directive are being considered in the context of transposition.

11. Impact on the public

A higher share of women on boards is likely to have a positive impact on closing both the gender employment gap and the gender pay gap

12. Estimated cost to the Exchequer

Unknown, additional resources may be required to meet reporting and monitoring requirements.

13. Consequences and possible costs, arising from non-transposition

Please indicate potential consequences and costs if known. Also include if a Directive outlines a fine that would be imposed for non-transposition.

Unknown

14. Have consultations taken place with stakeholders or are there any plans to do so?

Include information on consultations by the Department with stakeholders and representations from stakeholders to the Department in relation to the transposition of the Directive.

15. Are there areas of the Directive where Member States have discretion on implementation?

There are some provisions of the Directive where Member States have discretion on the policy approach to transposition. These are under consideration as part of the transposition of the Directive.

16. Does Ireland intend to seek any derogations from the provisions of the Directive?

No

17. Offences or penalties (if any) to be created by the transposition of the Directive

The Directive provides for penalties for infringement

18. Competent authorities or market surveillance authorities (if any) to be designated by the transposition of the Directive

Unknown

19. Consequences for national legislation?

Legislative amendments will likely be required to transpose the Directive, the exact nature of these are still under consideration.

20. Are there any parts of the Directive which are planned to be transposed by primary legislation, and if so, which parts?

By way of guidance, it may also be useful to indicate the parts of the Directive proposed to be transposed by statutory instrument and parts where transposition may not be necessary.

Unknown

21. When is it anticipated that the draft statutory instrument(s) transposing this Directive will be available?

Unknown

22. Contact name, telephone number and e-mail address of official in Department with primary responsibility

Equality and Gender Equality Unit, Department of Children, Equality, Disability, Integration and Youth

Date: 11/09/2023