

Scottish Government to legally challenge the UK Government's block of the Gender Reform bill

The Scottish Government has confirmed it will challenge the UK Government's decision to prevent the [Gender Recognition Reform Bill](#) from becoming law.

The Scottish Parliament approved the legislation, which allows people to legally change their gender through a system of self-identification, on 22nd December 2022, hailed by the Scottish Government at the time as "a historic day for equality".

Despite deep controversy around aspects of the Bill and its potential impact on women's rights, some rebellions from individual MSPs, and a heated debate both within and outside the chamber, it passed comfortably by 86 votes to 39 with support from Scottish Labour and Liberal Democrats as well as the SNP and Greens.

Shortly after the bill was passed, the Secretary of State for Scotland Alister Jack announced he would [use Section 35 powers in the Scotland Act](#) to prevent it from going forward for Royal Assent and becoming law. This is the first time this power has been used by the UK Government to overturn a decision taken at Holyrood. The UK Government cited concerns over its impact on legislation in the Equality Act 2010, that applies across the UK, as the reason for taking the unprecedented step of blocking devolved legislation, although this is disputed by the Scottish Government.

Scotland's Social Justice Secretary, Shirley-Anne Somerville, announced the decision today to challenge the Secretary of

State's use of the Section 35 Order in response to [a written parliamentary question](#), in order to meet the deadline to lodge a judicial review. A full statement will be made at Holyrood when the Scottish Parliament returns from the spring break.

Ms Somerville said: "The use of Section 35 is an unprecedented challenge to the Scottish Parliament's ability to legislate on clearly devolved matters and it risks setting a dangerous constitutional precedent.

"In seeking to uphold the democratic will of the Parliament and defend devolution, Scottish Ministers will lodge a petition for a judicial review of the Secretary of State for Scotland's decision.

"The UK Government gave no advance warning of their use of the power, and neither did they ask for any amendments to the Bill throughout its nine month passage through Parliament. Our offers to work with the UK Government on potential changes to the Bill have been refused outright by the Secretary of State, so legal challenge is our only reasonable means of resolving this situation.

"It is important to have clarity on the interpretation and scope of the Section 35 power and its impact on devolution. These matters should be legally tested in the courts."

Scottish Labour Equalities spokesperson Paul O'Kane said "The election of a new First Minister should have provided a reset moment on this debate. Instead, everyone is being failed by the constitutional row that has engulfed this bill.

"Trans people and women are still being failed and the SNP and Tory governments doing nothing to find consensus.

"This issue is too important to be reduced to political point scoring or culture wars.

“A fraught and expensive legal battle could have been avoided if both of our governments had been more willing to work in good faith to deliver a bill that works for everyone.

“The real questions here won’t be answered in the courts – we need to focus on building consensus and public support for a way forward on reform.”

Scottish Conservative deputy leader Meghan Gallacher MSP said:

“The vast majority of Scots oppose Nicola Sturgeon’s reckless GRR Bill because it compromises the safety of women and allows 16-year-olds to legally change gender.

“Polls also show the public oppose this legal challenge to the Section 35 Order, which the UK Government was forced to issue because the Bill impacts on equalities legislation across the UK.

“Yet Humza Yousaf has chosen to ignore public opinion – not to mention the views of his two SNP leadership rivals – to pursue confrontation with Westminster and appease the extremist Greens in his administration.

“A strong leader, acting in the national interest, would revisit and amend a profoundly flawed Bill. It’s a measure of Humza Yousaf’s weakness that he has chosen the opposite course.

“The First Minister should be focused on the real priorities of the Scottish people rather than a costly, self-serving legal battle.”



Social Justice Secretary Shirley-Anne Somerville MSP