

Law & Policy Group

GRIST

Netherlands introduces gender balance duty for companies

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New appointments to the supervisory boards of listed companies in the Netherlands will be subject to gender quotas, and large public limited companies (“NVs”) and private limited companies (“BVs”) will have to set ambitious gender balance targets for their board of directors and second tier management roles. The Act on Gender Balance on Management and Supervisory Boards (the Act) passed the parliament’s senate on 28 Sep 2021, and is expected to take effect on 1 Jan 2022. However, a sunset clause will cause the law to lapse in eight years, following an evaluation of its impact. The Act replaces gender balance rules based on a comply-or-explain principle that applied from 1 January 2013 to 1 January 2020.

Gender quotas for listed companies

Supervisory boards of listed companies will have to comprise at least one-third male and one-third female members, and any new board appointment that does not achieve gender balance will be null and void (however, the validity of any board decisions are unaffected). Certain exceptions will be allowed for single-member supervisory boards and one-tier boards, for board member reappointments made within an eight-year period of the initial appointment, appointments made in exceptional circumstances, and temporary appointments made by the Enterprise Chamber in the context of inquiry proceedings. The gender quota will apply to an estimated 100 companies. Group undertakings are exempt from the Act if the group holding company fulfills the gender balance duty.

Gender balance targets for large NVs and BVs

- Large NVs and BVs will have to set appropriate and ambitious gender balance targets for their supervisory boards and boards of directors, and for certain senior management roles. Large organizations are those that achieve two or more of the following criteria over two consecutive years: a balance sheet of more than €20 million, net turnover of more than €40 million and 250 or more employees averaged over the financial year. An estimated 5,000 large companies will be affected.

- Gender targets should aim to improve the gender balance and must take into account the size of the board, the supervisory board, senior manager numbers, and the current male/female ratio. Companies must draw up a plan to achieve their self-determined gender target, including such measures as recruitment and hiring strategies, adjustment of the board size to improve gender balance, and any affirmative action measures. If targets are met, companies must set a new strategy and appropriate targets.
- Companies must report their progress toward achieving their gender targets in their annual report within 10 months of the end of the financial year. The first report must be submitted for the 2022 financial year and the information must follow a specified format, including the number of men and women in first- and second-tier management roles, the measures taken to achieve the targets and the extent to which they were met during the previous financial year, and the reasons for failing to achieve any of the gender goals.
- The Dutch Social and Economic Council will monitor companies' progress and compliance with the Act and publish their findings.

Related resource

- [Act on gender balance on management and supervisory boards](#) (Dutch) (Dutch parliament, 28 Sep 2021)

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