

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 27 July 2020</b>
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Review of Welsh Government Consultation Papers: draft Senedd Cymru (Representation of the People) (Amendment) Order 2020 and draft Senedd Cymru (Disqualification) Order 2020
Purpose of Report:	To seek Cabinet's endorsement of the draft responses to the Welsh Government Consultation Papers and draw to Members' attention the ongoing consultations
Report Owner:	Cabinet Member for Legal, Regulatory and Planning Services
Responsible Officer:	Managing Director
Elected Member and Officer Consultation:	Electoral Registration and Returning Officer
Policy Framework:	This is a matter for executive decision by Cabinet
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• Welsh Government issued in June 2020, two consultation papers relating to the below draft Orders which relate to the Senedd Cymru Elections to be held in May 2021: draft Senedd Cymru (Representation of the People) (Amendment) Order 2020 and draft Senedd Cymru (Disqualification) Order 2020</li> <li>• The Consultation documents are attached at Appendix A and D, with the draft Orders attached at Appendix B and E, with proposed responses at Appendix C and G respectively.</li> <li>• This report is seeking approval of the proposed responses and draws to the attention of all Members the ongoing consultations which close on 8 and 1 September 2020 respectively.</li> </ul>	

## **Recommendations**

1. That Cabinet endorses the proposed responses attached to this report at Appendix C and G, in respect of the Welsh Government's consultations on the draft Senedd Cymru (Representation of the People) (Amendment) Order 2020 and the draft Senedd Cymru (Disqualification) Order 2020.
2. That the responses to the consultations be submitted to Welsh Government prior to 8 and 1 September 2020 respectively.
3. That this report be shared with all Members of the Council to raise awareness of Welsh Government's ongoing consultations.
4. That the urgent decision procedure set out at Section 14.14 of the Council's Constitution be used in respect of recommendations 1-3 above.

## **Reasons for Recommendations**

1. To agree a response to the Welsh Government consultations.
2. To meet the Welsh Government deadlines.
3. To raise awareness with all Members of the Welsh Government's ongoing consultations.
4. To meet the Welsh Government deadlines.

## **1. Background**

- 1.1 Welsh Government issued the two consultation documents attached at Appendix A and D in June 2020 with a response deadline of 8 and 1 September 2020 respectively.

## **2. Key Issues for Consideration**

- 2.1 The consultation documents relate to the following draft Orders, and a summary of the key provisions are set out below:

### **The Draft Senedd Cymru (Representation of the People) (Amendment) Order 2020:**

Appendix A is a copy of the Welsh Government consultation document with a copy of the draft Senedd Cymru (Representation of the People) (Amendment) Order 2020 set out in Appendix B.

The draft Order proposes amendments to the National Assembly for Wales (Representation of the People) Order 2007 (as Amended) which primarily sets out the rules for the conduct of Elections to the Senedd Cymru.

Some of the proposed amendments reflect Welsh Government policy decisions and legislative changes including those introduced by the Senedd and Elections (Wales) Act 2020 and in particular address:

The Senedd Cymru change of name.

Extension of Senedd Franchise to 16 and 17 year olds and associated provisions as enacted by the Senedd and Elections (Wales) Act 2020.

Protection of information about persons aged under 16 years old.

Extension of the Senedd franchise to qualifying foreign citizens.

Disqualifications to align with the Senedd and Elections (Wales) Act 2020 and the Government of Wales Act 2006 as amended.

The withholding of publication of candidates' addresses to align with other legislation permitting candidates to withhold their home addresses from publication including where a candidate acts as his/her own agent.

Removing the payment of a fee to Returning Officers for administering Senedd Cymru Elections at a Constituency and Regional level.

Proposal to make a payment to all Electoral Teams for running the Senedd Cymru Elections in 2021, with the possibility of an additional amount being paid to those Teams dealing with the regional administration aspects of the Election reflecting the remit of the Regional Returning Officer.

Enabling Codes of Practice to be introduced by the Electoral Commission relating to election expenses for candidates at Senedd Cymru Elections.

Other matters not included in the draft Order which are intended to be included in the final Order include:

Provision to ensure that the rules in the Order for absent voters' records and the rules for the protection of information about 14 and 15 year old attainers in the Senedd and Elections (Wales) Act 2020, operate effectively together; and

Provision for political parties to use the term "Welsh" or "Cymru" on registration and ballot papers for the Senedd Elections.

The proposed draft response to the Consultation is attached at Appendix C.

**The Draft Senedd Cymru (Disqualification) Order 2020:**

Appendix D is a copy of the Welsh Government consultation document with a copy of the draft Senedd Cymru (Disqualification) Order 2020 set out in Appendix E.

In line with the general principles as recommended by the Constitutional and Legislative Affairs Committee which are referred to in Appendix D, the Order sets out

a list of offices which disqualify the persons holding them from being a Member of the Senedd, and supplements the disqualifying offices as set out in the Government of Wales Act 2006. Attached at Appendix F is the list of disqualifying offices as set out in the Government of Wales Act 2006.

The consultation seeks views on which offices should be included in the Order.

For information, Schedule 1A, part 2 of the Government of Wales Act 2006 which lists the offices currently disqualified is attached Appendix F to this report.

The proposed response to the consultation is set out of Appendix G to this report.

### **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

- 3.1** This report demonstrates the Council's collaboration with Welsh Government and is in line with the Council's work and commitments to the Wellbeing of future generations (Wales) Act 2015.

### **4. Resources and Legal Considerations**

#### **Financial**

- 4.1** None directly linked to this report, however there are potential implications of the Council if the Welsh Government proposals relating to the removal of the payment of a fee in respect of the Returning Officer duties is introduced.

#### **Employment**

- 4.2** None directly linked to this report.

#### **Legal (Including Equalities)**

- 4.3** None directly linked to this report.

### **5. Background Papers**

As referred to in the report and its appendices.

Number: WG39580



Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

# The draft Senedd Cymru (Representation of the People) (Amendment) Order 2020

Date of issue: 15 June 2020

Action required: Responses by 8 September 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

**Overview** Section 13 of the Government of Wales Act 2006 allows an Order to be made setting out the rules for the conduct of elections to Senedd Cymru (formerly known as the National Assembly for Wales). This consultation seeks your views on proposed amendments to the current Order (the National Assembly for Wales (Representation of the People) Order 2007) which would be made by the draft Senedd Cymru (Representation of the People) Order 2020.

**How to respond** You can respond to this consultation by completing, by the closing date, the consultation response form at the back of this document and returning it to us by post to the address below. Arrangements have been made to ensure responses submitted by post are received during the COVID-19 pandemic.

Constitution and Justice  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Alternatively the consultation response form is available on our website ([www.gov.wales/consultations/?lang=en](http://www.gov.wales/consultations/?lang=en)) and can be returned to us by e-mail to: [CAUMailbox@gov.wales](mailto:CAUMailbox@gov.wales).

**Further information and related documents** **Large print, Braille and alternative language versions of this document are available on request.**

The National Assembly for Wales (Representation of the People) Order 2007

<http://www.legislation.gov.uk/ukxi/2007/236/contents/made>

Senedd and Elections (Wales) Act 2020

<http://www.legislation.gov.uk/anaw/2020/1/contents/enacted>

Local Government and Elections (Wales) Bill

<http://senedd.assembly.wales/mglIssueHistoryHome.aspx?Ild=26688>

**Contact details**

For further information:

Constitution and Justice  
Welsh Government  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

email: [CAUMailbox@gov.wales](mailto:CAUMailbox@gov.wales)

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. The Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:  
Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

The contact details for the Information Commissioner's Office are:  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

e-mail:  
[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)



## **Background**

The National Assembly for Wales (Representation of the People) Order 2007, (sometimes known as “the Conduct Order” and referred to in the remainder of this document as “the 2007 Order”), sets out the detailed rules for the conduct of elections to Senedd Cymru (formerly known as the National Assembly for Wales and referred to in the remainder of this document as the “Senedd”). It sets out the way in which the election and the election campaign are conducted, and includes provisions for legal challenge to an election. It also includes provisions concerning the collection and retention of personal identifiers for postal and proxy voters and requirements in connection with the application for and dealing with absent votes.

The 2007 Order is reviewed and has generally been amended before each Senedd general election. Amendments to the Order are typically made to reflect any relevant policy or legislative changes which have taken place since the previous election. They also make any relevant technical and/or minor updates such as amendments to certain limits to candidates’ expenditure.

Previous Orders and amendments have been made by the Secretary of State for Wales. The current 2007 Order has been amended a number of times. Following the enactment of the Wales Act 2017 the power to make provision for the conduct of Senedd elections has largely transferred to the Welsh Ministers.

## **What are the main issues?**

The 2007 Order was amended in 2010, 2013 and twice in 2016. We are committed to making the law in Wales accessible and easy to navigate. We recognise, along with many others, that electoral law generally is in need of updating and consolidation. Given the number of times the current Order has been subject to amendment we considered whether the Order should be remade rather than amended. Given the extent of the Order and the need for it to be in place sufficiently in advance of the Senedd elections in 2021, we concluded due to the scale of the work likely to be required it would be preferable to amend the Order on this occasion. However we plan to review the Order further after the elections with a view to consolidating this in time for the 2026 elections.

Some of the proposed amendments to the 2007 Order in readiness for the next Senedd general election are technical in nature and are required to reflect policy decisions and legislative changes which have already been subject to substantive consideration. In particular most arise as a result of changes to the franchise and disqualification arrangements made by the Senedd and Elections (Wales) Act 2020, specifically the extension to voters aged 16 and 17 and to qualifying foreign citizens, and some consequential amendments arising from the disqualification and naming provisions.

Other amendments are more significant and reflect changes made elsewhere in the United Kingdom to allow candidates the option of not publishing their home address at an election, along with the issue of payment to returning officers fees for services rendered, as well as other general updates reflecting changes since the last amending Order was made.

The main purpose of this consultation is to ensure we have identified the relevant issues and the resulting amendments are clear and workable. We are not consulting on the merits of policies which have already been subject to consultation and debate. Where policies were considered in the regulatory impact assessments for the Senedd and Elections (Wales) Act 2020 and the Local Government and Elections (Wales) Bill, in the absence of any additional or alternative evidence, we do not intend to carry out those assessments again. Links to the both the Senedd and Elections (Wales) Act 2020 and the Local Government and Elections (Wales) Bill (including the outcome of the consultations and the regulatory impact assessments) are included on the first page.

We would welcome comments on whether there are any additional aspects of the 2007 Order which require updating or amending as well as comments on the proposed amendments themselves.

### **Senedd change of name**

The draft Statutory Instrument (SI) uses the new name of Senedd Cymru where it amends the 2007 Order.

Not all references within the 2007 Order to the “National Assembly” or “Assembly” are specifically amended by the draft SI which we are consulting upon. This is because Part 2 of the Senedd Act is intended to work alongside section 150A of the Government of Wales Act 2006. This section (as amended by paragraph 2(7) of Schedule 1 to the 2020 Act), provides that references to Senedd Cymru, Acts of Senedd Cymru and the Senedd Commission by their old names include the new names given by Part 2 of the 2020 Act.

### **Extension of Senedd franchise to 16 and 17 year olds and associated provisions**

The draft SI amends the 2007 Order to reflect the extension of the franchise to 16 and 17 year olds by the Senedd and Elections (Wales) Act 2020 including provisions relating to proxy votes, the provision of assistance to vote, and restrictions on persons who enter a polling station. Amendments are also proposed to extend provisions relating to offences and penalties to cover 16 and 17 year olds. However, it is not proposed to amend the 2007 Order to extend all provisions to this category of voters where it is considered that it would be inappropriate to do so. For example, offences and penalties that previously applied to 16 and 17 year olds as attainders will not be extended to 14 and 15 year olds, as they are unlikely to have the means to pay any financial penalty.

The extension of the franchise requires amendments to bring 14 and 15 year olds within the scope of the annual canvass. Amendments have therefore also been made to provisions relating to the maintenance, use, and publication of records to ensure consistency with the restrictions introduced by the Senedd and Elections (Wales) Act 2020.

## **Extension of Senedd franchise to qualifying foreign citizens**

Similar amendments are also proposed to reflect provisions in the Senedd and Elections (Wales) Act 2020 extending the franchise to qualifying foreign citizens.

“Qualifying foreign citizens” for these purposes are those that persons who:

- (a) are not Commonwealth citizens, citizens of the Republic of Ireland or relevant citizens of the European Union, and
- (b) either-
  - a. are not persons who require leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
  - b. are such persons but for the time being have (or are, by virtue of any enactment, to be treated as having) any description of such leave.

## **Disqualification**

Section 16(1)(a) and (2) of the Government of Wales Act 2006 currently provide that a person is disqualified from membership of the Senedd if that person is disqualified from being a member of the House of Commons. Part 4 of the Senedd and Elections (Wales) Act 2020 repeals those provisions and amends the 2006 Act to include specific reference to the disqualifying circumstances that previously applied indirectly to membership of the Senedd by reference to disqualification from membership of the House of Commons.

Part 4 also amends the 2006 Act so that it distinguishes between the circumstances that are a bar to candidature for the Senedd and those offices that are a bar to taking up membership of the Senedd but not to candidature. The latter are those that are considered could give rise to a conflict of interest with membership of the Senedd, but where the conflicting office can be resigned before taking the oath, or making the affirmation, of allegiance.

The draft SI makes amendments to the 2007 Order to reflect these changes.

For example, references to disqualification under the Representation of the People Act 1981 are omitted on the basis that disqualification under this Act is no longer applicable to Senedd elections as a result of Part 4 of the 2020 Act.

## **Publication of candidates' addresses**

Electoral legislation for local elections in England and UK Parliamentary elections has recently been changed to prevent the publication of the addresses of candidates at an election. The Welsh Government believes that the rationale for doing so for those elections also applies to Senedd elections: to avoid capable individuals being deterred from standing for office because they believe the process risks their safety, or makes them vulnerable to abusive activity.

Amendments are therefore proposed to ensure candidates are able to withhold their home address from publication and also to ensure that where a candidate acts as his/her own agent their home addresses are not published.

### **Payments to Returning Officers**

The draft SI includes an amendment which would have the effect of removing “services rendered” from the provisions relating to payments by and to Returning Officers within the 2007 Order. In effect this would remove the right of constituency and regional Returning Officers to be paid personal fees for running Senedd elections. Their ability to recover expenses incurred for or in connection with a Senedd election would be unaffected.

Every principal council is required to appoint an officer of the council to be the Returning Officer for the election of councillors to their principal council. The duties of the Returning Officer are separate from their duties as a local government officer. The Returning Officer of a principal council is usually, although not always, the principal council’s chief executive.

The 2007 Order provides that a constituency returning officer and regional returning officer will be the person who is appointed as the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Senedd constituency or electoral region as the case may be. Unless there is more than one such person for this purpose in which case the officer will be the person who is for the time being designated by the Welsh Ministers.

Current practice means that Returning Officers often reclaim an amount for their services and expenses incurred in the running of an election from the body responsible for the funding of the elections. (For Welsh elections, this means the Welsh Government would be responsible for the funding of Senedd elections and individual principal councils for principal and community council elections. The costs associated with community councils elections can be reclaimed by the principal council from the community council).

In recent years, however, significant public attention has been paid to the level of salaries payable to senior public servants at a time of general restraint and limitations over pay more generally. This has included the issue of Returning Officers fees, which, in some cases, are claimed in multiples. (This is the case in Senedd elections, for instance, if a Returning Officer covers more than one constituency and/or is appointed as Regional Returning Officer for the purpose of the election of Regional Members). The negative view of senior salaries was confirmed by responses to the electoral reform consultation<sup>1</sup>.

Further information can be found in the Explanatory Memorandum (incorporating the Regulatory Impact Assessment and Explanatory Notes) to the Local Government and Elections (Wales) Bill<sup>2</sup>.

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<sup>1</sup><https://gov.wales/sites/default/files/consultations/2018-04/180526-summary-of-responses.pdf> (section 6 pg 45)

<sup>2</sup> <https://senedd.wales/laid%20documents/pri-ld12877-em/pri-ld12877-em-e.pdf>

The Welsh Government is aware of the additional burden the electoral reform programme has placed on electoral management teams across Wales. While we propose to remove the personal fee payable to Returning Officers, we are also proposing to replace this with an amount payable to all electoral teams for running the Senedd elections in 2021. This is likely to be an incremental lump sum paid directly to each electoral management team and would reflect the size of the electorate, the size of the constituency and whether or not the team dealt with cross boundary constituencies. An additional amount may be payable to those teams dealing with the regional administration aspects of the election and would reflect the remit of the Regional Returning Officer. We propose that it would be at the discretion of the RO/ RRO as to how this amount is spent. This proposal remains under consideration.

### **Codes of Practice**

The draft SI makes provision for the Electoral Commission to prepare a code of practice in relation to election expenses for candidates at Senedd Cymru elections. The code of practice must be submitted to the Welsh Ministers for approval and they may approve a draft Code prepared by the Commission with or without modifications. Previously, this power was exercised by the Secretary of State.

### **Other matters not included in the draft Order which are intended to be included in the final Order**

Work is continuing on two issues which, if appropriate, are intended to be addressed within the final Order but are not yet included in the draft Order. These are:

- provision to ensure that the rules in the Order for absent voters' records and the rules for the protection of information about 14 and 15 year old attainers in the Senedd and Elections (Wales) Act 2020 operate effectively together; and
- provision for political parties to use the term "Welsh" or "Cymru" on registration and ballot papers, as outlined below.

### **Presentation of Political Parties on Nomination and Ballot Papers**

Consideration is being given to the proposal for making an addition to the Conduct Order relating to how political parties are presented on nomination papers and on ballot papers. If this change were implemented it would allow parties to use the prefix "Welsh" (when using the English language name) or the suffix "Cymru" (when using the Welsh language name). This change was made in Scotland for Scottish Parliamentary elections in 2015. The Welsh Government believes this will ensure that the distinction can be made between devolved branches of UK-wide political parties and avoid confusion for voters. Consideration is also being given to making this change for local government candidates in Wales through the appropriate secondary legislation in time for the 2022 local government elections.

## **Exemptions from election expenses for disability and translation related costs – for inclusion in a separate Order in due course**

The Electoral Commission has recommended that the following costs should be exempted from political parties' and candidates' electoral spending limits:

- translation costs between Welsh and English; and
- reasonable costs attributable to an individual's disability.

As part of its Assembly Reform programme, the Senedd Commission (the body which is responsible for providing property, staff and services to the Senedd) consulted on the Electoral Commission's recommendations and found that there was significant support for their implementation.

The Welsh Government accepts these recommendations and intends to give effect to them in a separate Order ahead of the 2021 Senedd general elections.

## **Miscellaneous issues**

A small number of other miscellaneous amendments have also been made.

For example, numerous references to the Government of Wales Act 1998 are amended or omitted on the basis that these are no longer relevant.

## Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

**Question 1:** We would like to know your views on the proposed amendments to the Conduct Order. Are the amendments workable? Do they have the effect intended by the changes to the primary legislation which gives rise to them? Are they clear and understandable?

**Question 2:** We would like to know whether there are any other aspects of the Order you think may require updating or amending? Have there been any developments since the Order was last amended which necessitate changes to the Order?

**Question 3:** We would like to know your views on the effects that the Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?

**Question 4:** Please also explain how you believe the Order could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Question 5 :** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

*Draft Order laid before Senedd Cymru under section 13(7) of the Government of Wales Act 2006, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2020 No. (W. XX)**

**CONSTITUTIONAL LAW**

**REPRESENTATION OF THE  
PEOPLE, WALES**

**The Senedd Cymru (Representation  
of the People) (Amendment) Order  
2020**

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236) (“the 2007 Order”).

The 2007 Order and subsequent amendment Orders were made by the Secretary of State, but the enabling powers were transferred to the Welsh Ministers by the Wales Act 2017. Consequently, this is the first Order made by the Welsh Ministers in relation to the conduct of Senedd Cymru elections.

The title of this Order contains the term Senedd Cymru due to the change made to the name of the National Assembly for Wales by Part 2 of the Senedd and Elections (Wales) Act 2020 (“the 2020 Act”).

Part 2 of this Order also makes provision in relation to the 2007 Order to reflect the changes made by Part 2 of the 2020 Act. For example, articles 4 to 35 substitute references within these forms to the National Assembly of Wales with ones to the new name in consequence of Part 2 of the 2020 Act.

Part 3 of this Order makes various provision to give effect to and in consequence of Part 3 (elections) of the 2020 Act. Part 3 of that Act makes provision to lower the voting age for and extend the franchise to qualifying foreign citizens at Senedd Cymru elections.

Article 36 amends article 14 of the 2007 Order to ensure that offences committed under the Order in relation to providing false information are applicable only to those who have attained voting age.

Articles 37 and 38 make various amendments to Schedule 1 (absent voting) and Schedule 5 (Senedd Cymru election rules) to the 2007 Order, respectively. These amendments all reflect the fact that Part 3 of the 2020 Act provides that at elections for membership of the Senedd at which the poll is held on or after 5 April 2021, a person who has attained the age of 16 and would otherwise be entitled to, may vote at that election and make provision in consequence of this.

In particular article 37(2) amends paragraph 1(9) of Schedule 1 and inserts a new paragraph (e). When making an application for absent voting at Senedd Cymru elections, a person is required to provide their address to which they are, or will be registered. Paragraph 1(9) of Schedule 1 enables service voters, patients in mental hospitals who are not detained offenders, persons remanded in custody and homeless persons to provide certain addresses for the purpose of an application. The 2020 Act makes provision for persons who are, or have been, looked after children to make a declaration of local connection to (i) an address in Wales at which the person has previously been resident; or (ii) the address of a council of a county or county borough in Wales in which that person has previously been resident. New paragraph 1(9)(e) allows an applicant to use any such address for the purpose of applying to be an absent voter.

Article 37(7) inserts paragraph 14A in Schedule 1 which ensures that information contained within an absent voter record or list which relates to a person under the age of 16 is not disclosed unless it is necessary for the purpose of, or in connection with, an election at which that young person will be entitled to vote.

Article 38 lowers the age of those who are entitled to accompany voters to the polling station by virtue of rule 41(1)(b) of Schedule 5 to 16. Paragraph (b) lowers the age of those who the Presiding Officer may limit admission to a polling station to 16. Paragraph (c) amends rule 48(3)(b) of Schedule 5 to similarly lower the age of those who are entitled to accompany a person who is a voter with disabilities to 16.

Part 4 of this Order amends the 2007 Order in consequence of Part 4 (disqualification) of the 2020 Act.

Article 43 amends article 34 (false statements in nomination papers etc.) of the 2007 Order so as to provide that a statement as to candidate's qualification for a Senedd Cymru election includes a statement that

the candidate is not disqualified under section 16(A1) of the 2006 Act (disqualification from being a Senedd member).

Article 44 makes amendments to various provisions within Schedule 5 to the 2007 Order (Senedd Cymru election rules). The purpose of these amendments is to give effect to the change made in Part 4 of the 2020 Act which introduces a distinction between disqualification from membership of the Senedd and disqualification from candidacy for and membership of the Senedd.

Article 44(5) omits rule 19 of Schedule 5 given that disqualification under the Representation of the People Act 1981 is no longer applicable to Senedd Cymru elections as a result of Part 4 of the 2020 Act.

Part 5 of this Order makes provision for candidates at Senedd Cymru elections to request that their home address not be made public. This provision, also applies to those who act as their own agents. Where such persons request that their home address not be made public, their home address will not appear on a statement of persons nominated and the ballot paper. However they are nevertheless required to provide, where they are residents in the United Kingdom, the constituency in which they live, or, where they reside outside the United Kingdom, the name of the country in which they live.

Articles 47 to 52 introduce the Schedule to this Order which contains a home address form in which candidates can request that their home address not be made public and make consequential amendments to other prescribed forms in Schedule 10 to the 2007 Order.

Articles 53 to 55 amend articles 23 and 23A of, and Schedule 4 to, the 2007 Order. The amendments made to article 23 will mean that constituency and regional returning officers will only be entitled to recover charges in respect of those expenses incurred in connection with a Senedd Cymru election and will no longer be entitled to recover charges in respect of services rendered. In consequence of this, article 23A of the 2007 Order, which makes further provision about charges for services rendered is revoked.

Part 7 of this Order makes provision enabling the Electoral Commission to prepare a code of practice in relation to election expenses for candidates at Senedd Cymru elections. Article 56 revokes article 63(8) of the 2007 Order. This is replaced by the new provision in article 57 to be included within Schedule 7 (election expenses) to the 2007 Order.

In accordance with this, the Welsh Ministers may approve a draft Code prepared by the Commission with or without modifications. They must then lay the

Code, in draft form, before Senedd Cymru. Within 40 days, the Senedd may make a resolution not to approve the draft Code. In that event, the Welsh Ministers must take no further steps in relation to it. But if no resolution is made, the Welsh Ministers must issue the Code in the form of the draft laid and the Commission must publish it.

Part 8 of this Order revokes out of date references to the Government of Wales Act 1998 (“the 1998 Act”). These references were transitional in nature and are now unnecessary.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

*Draft Order laid before Senedd Cymru under section 13(7) of the Government of Wales Act 2006, for approval by resolution of Senedd Cymru.*

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DRAFT WELSH STATUTORY  
INSTRUMENTS

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**2020 No. (W. XX)**

**CONSTITUTIONAL LAW**

**REPRESENTATION OF THE  
PEOPLE, WALES**

The Senedd Cymru (Representation  
of the People) (Amendment) Order  
2020

*Made* \*\*\*

*Coming into force* \*\*\*

The Welsh Ministers make this Order in exercise of the powers conferred on them by sections 13(1) and 157(2)(c) of the Government of Wales Act 2006(1) and section 26(3) of the Welsh Language Act 1993(2).

In accordance with section 7(1) and (2)(f) of the Political Parties, Elections and Referendums Act 2000(3), the Welsh Ministers have consulted with the Electoral Commission prior to it being made.

In accordance with section 13(7) of the Government of Wales Act 2006, a draft of this instrument has been laid before and approved by a resolution of Senedd Cymru.

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- (1) 2006 c. 32. Section 13 was substituted by section 5(1) of the Wales Act 2017 (c. 4) and subsequently amended by the Senedd and Elections (Wales) Act 2020 (anaw 1).  
(2) 1993 c. 38.  
(3) 2000 c. 41; subsection (2)(f) was substituted by S.I. 2007/1388 and subsequently amended by the Wales Act 2017 (c. 4).

## PART 1

### General

#### **Title, commencement and interpretation**

**1.**—(1) The title of this Order is the Senedd Cymru (Representation of the People) (Amendment) Order 2020.

(2) It comes into force on [XX].

(3) Articles 3 to 62 apply only in respect of an election the poll for which is held on or after 5 April 2021.

(4) In this Order, “the 2007 Order” means the National Assembly for Wales (Representation of the People) Order 2007<sup>(1)</sup>.

#### **Amendment of the 2007 Order**

**2.** The 2007 Order is amended in accordance with articles 3 to 62.

## PART 2

### Renaming of the National Assembly for Wales

#### **Change of the name of the National Assembly for Wales**

**3.** In article 2(1) (interpretation), for the definition of “the Assembly” substitute—

““Senedd Cymru” means the Senedd Cymru constituted by the 2006 Act;”.

**4.** Schedule 10 (appendix of forms) is amended as follows, and such amendments are made to both the Welsh and English language text of the forms.

**5.** In form CA (form of proxy paper)—

- (a) for “the National Assembly for Wales” substitute “Senedd Cymru”;
- (b) for “Assembly election(s)” substitute “Senedd Cymru election(s)”;
- (c) for “any Assembly election”, in each place it occurs substitute “any Senedd Cymru election”;

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<sup>(1)</sup> S.I. 2007/236. This Order has been amended by S.I. 2009/1182; S.I. 2010/1142 (W. 101); S.I. 2010/2931; S.I. 2011/1441; S.I. 2011/2085; S.I. 2012/1479; S.I. 2013/388; S.I. 2013/591; S.I. 2015/664; S.I. 2016/272; S.I. 2016/292; section 3 of the Wales Act 2014 (c. 29) and section 27 of the Senedd and Elections (Wales) Act 2020 (anaw 1).

- (d) for “an Assembly election”, in each place it occurs substitute “a Senedd Cymru election”;
- (e) for “Assembly elections”, in each place it occurs substitute “Senedd Cymru elections”;
- (f) for the words from “at an Assembly general election” to “Assembly electoral region” substitute—

“at a Senedd Cymru general election in the same Senedd Cymru constituency or constituencies in the same Senedd Cymru electoral region”.

**6.** In form CB (form of certificate of employment), for “the National Assembly for Wales” substitute “Senedd Cymru”.

**7.** In forms CC1, CC2 and CC3 (form of postal voting statement)—

- (a) for “the National Assembly for Wales”, in each place it occurs substitute “Senedd Cymru”;
- (b) for “National Assembly constituency members” substitute “Senedd Cymru constituency members”;
- (c) for “National Assembly regional members” substitute “Senedd Cymru regional members”.

**8.** In form CD (statement as to postal ballot papers)—

- (a) for “Election to the National Assembly for Wales” substitute “Election to Senedd Cymru”;
- (b) for “Assembly Constituency” substitute “Senedd Cymru Constituency”.

**9.** In form CE (form of nomination paper: constituency election), for “the National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”.

**10.** In form CF (form of certificate referred to in rule 5(1)), for “Assembly Constituency” substitute “Senedd Cymru Constituency”.

**11.** In form CG (form of certificate referred to in rule 5(3)), for “Assembly Constituency” substitute “Senedd Cymru Constituency”.

**12.** In form CH (form of individual nomination paper: regional election), for “the National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”.

**13.** In form CI (form of party nomination paper: regional election), for “the National Assembly for

Wales” in the heading to the form substitute “Senedd Cymru”.

**14.** In form CK (constituency ballot paper)—

- (a) for “National Assembly for Wales” substitute “Senedd Cymru”;
- (b) for “Assembly Member” substitute “Member of the Senedd”.

**15.** In form CK1 (directions as to printing the ballot paper: constituency election)—

- (a) for “National Assembly for Wales election” substitute “Senedd Cymru election”;
- (b) for “Assembly member” substitute “Member of the Senedd”.

**16.** In form CL (regional ballot paper)—

- (a) for “National Assembly for Wales election” substitute “Senedd Cymru election”;
- (b) for “Assembly Member” substitute “Member of the Senedd”;
- (c) for “Assembly constituency” substitute “Senedd Cymru constituency”.

**17.** In form CL1 (directions as to printing the ballot paper: regional election)—

- (a) for “National Assembly for Wales election” substitute “Senedd Cymru election”;
- (b) for “Assembly member” substitute “Member of the Senedd”;
- (c) for “Assembly constituency” substitute “Senedd Cymru constituency”.

**18.** In form CM (form of corresponding number list), for “The National Assembly for Wales” substitute “Senedd Cymru”.

**19.** In form CM1 (form of corresponding number list for combined polls), for “the National Assembly of Wales” substitute “Senedd Cymru”.

**20.** In form CN1 (elector’s form of poll card), for “the National Assembly for Wales” substitute “Senedd Cymru”.

**21.** In form CN2 (proxy’s form of poll card), for “the National Assembly for Wales” substitute “Senedd Cymru”.

**22.** In form CN3 (postal voter’s form of poll card), for “the National Assembly for Wales” substitute “Senedd Cymru”.

**23.** In form CN4 (postal proxy’s form of poll card), for “the National Assembly for Wales” substitute “Senedd Cymru”.

**24.** In form CO (form of corresponding number list for use by presiding officers in polling stations), for “The National Assembly for Wales” substitute “Senedd Cymru”.

**25.** In form CO1 (combined form of corresponding number list for use by presiding officers in polling stations), for “the National Assembly of Wales” substitute “Senedd Cymru”.

**26.** In form CQ (form of declaration to be made by the companion of a voter with disabilities), for “the National Assembly for Wales” substitute “Senedd Cymru”.

**27.** In form CQ1 (form of declaration to be made by the companion of a voter with disabilities), for “the National Assembly for Wales”, in each place it occurs substitute “Senedd Cymru”.

**28.** In form CR (form of certificate declaring candidate to be returned at a constituency election)—

- (a) for “The National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “an Assembly constituency” substitute “a Senedd Cymru constituency”;
- (c) for “the National Assembly for Wales” substitute “Senedd Cymru”.

**29.** In form CS (form of certificate declaring candidates to be returned at a regional election)—

- (a) for “The National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “an Assembly electoral region” substitute “a Senedd Cymru electoral region”;
- (c) for “the National Assembly for Wales” substitute “Senedd Cymru”.

**30.** In form CT (form of certificate: electoral region; seat to remain vacant until next Assembly general election)—

- (a) for “The National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “an Assembly electoral region” substitute “a Senedd Cymru electoral region”;
- (c) for “Assembly general election” substitute “Senedd Cymru general election”;
- (d) for “the National Assembly for Wales” substitute “Senedd Cymru”.

**31.** In form CU (form of return: expenses incurred in support of a candidate)—

- (a) for “The National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “Assembly constituency” substitute “Senedd Cymru constituency”;
- (c) for “Assembly electoral region” substitute “Senedd Cymru electoral region”.

**32.** In form CV (form of declaration: expenses incurred in support of a candidate)—

- (a) for “The National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “Assembly constituency” substitute “Senedd Cymru constituency”;
- (c) for “Assembly electoral region” substitute “Senedd Cymru electoral region”.

**33.** In form CW (return of candidate’s election expenses)—

- (a) for “the National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “Assembly electoral region” substitute “Senedd Cymru electoral region”.

**34.** In form CX (form of declaration by constituency or individual candidate as to election expenses)—

- (a) for “The National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “Assembly constituency” substitute “Senedd Cymru constituency”;
- (c) for “Assembly electoral region” substitute “Senedd Cymru electoral region”.

**35.** In form CY (form of declaration by party list candidates as to election expenses)—

- (a) for “the National Assembly for Wales” in the heading to the form substitute “Senedd Cymru”;
- (b) for “Assembly electoral region” substitute “Senedd Cymru electoral region”.

## PART 3

### Extension of the right to vote

#### **Amendment of article 14 (offences)**

**36.** In paragraph 1 of article 14, after “A person who” insert “has attained voting age and”.

**Amendment of Schedule 1 (absent voting at Senedd Cymru elections)**

**37.**—(1) Schedule 1 (absent voting at Senedd Cymru(1) elections) is amended as follows.

(2) In paragraph 1(9)—

- (a) at the end of paragraph (c), omit “and”;
- (b) at the end of paragraph (d), omit “.” and insert “; and”;
- (c) after paragraph (d) insert—

“(e) in the case of a person who is, or has been, a child looked after by a local authority, the address at which they are resident or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act.”

(3) In paragraph 5(2)(a)(i), for “18” substitute “16”.

(4) In paragraph 5(4)(a), for “18” substitute “16”.

(5) In paragraph 6A(4)(b)(i), for “18” substitute “16”.

(6) In paragraph 6A(6)(b)(ii), for “18” substitute “16”.

(7) After paragraph 14 (conditions on the use, supply and inspection of absent voter records or lists) insert—

**“Protection of information about persons aged under 16**

**14A.**—(1) A young person’s information (other than any information by which the person’s date of birth may be ascertained) may be disclosed in a version or copy of an absent voters record or list supplied in accordance with the relevant provisions of this Order in relation to Senedd Cymru elections, but only so far as it is necessary to do so for the purposes of or in connection with an election at which the young person will be entitled to vote.

(2) In this paragraph, “young person’s information” is to be construed in accordance with section 24(2) of the Senedd and Elections (Wales) Act 2020.”

**Amendment of Schedule 5 (Senedd Cymru election rules)**

**38.** In Schedule 5 (Senedd Cymru election rules)—

- (a) in rule 41(1)(b), for “18” substitute “16”;

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(1) References in the 2007 Order to the National Assembly for Wales now have effect as references to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

- (b) in rule 41(2), for “18” substitute “16”;
- (c) in rule 48(3)(b), for “18” substitute “16”.

#### **Amendment of Schedule 10 (appendix of forms)**

**39.** Schedule 10 (appendix of forms) is amended as follows.

**40.** In form CA (form of proxy paper)—

- (a) for “18” substitute “16”;
- (b) after “Republic of Ireland,” insert “a qualifying foreign citizen”.

**41.** In form CQ (form of declaration to be made by the companion of a voter with disabilities), for “18” substitute “16”.

**42.** In form CQ1 (form of declaration to be made by the companion of a voter with disabilities), for “18” substitute “16”.

## **PART 4**

### **Disqualification**

#### **Amendment of article 34 (false statements in nomination papers etc)**

**43.** In article 34(5)—

- (a) omit sub-paragraphs (a) and (b);
- (b) in sub-paragraph (c), for the words from “or to the best of his knowledge” to the end substitute “under section 16(A1) of the 2006 Act (disqualification from being Senedd member)”.

#### **Amendment of Schedule 5 (Senedd Cymru election rules)**

**44.—**(1) Schedule 5 (Senedd Cymru election rules) is amended as follows.

(2) In rule 9—

- (a) in paragraph (4)(c)—
  - (i) omit paragraph (i);
  - (ii) in paragraph (ii), for the words from “for membership of the Assembly” to the end substitute “under section 16(A1) of the 2006 Act from being a Member of the Senedd, and from being a candidate to be a Member of the Senedd”;
- (b) omit paragraph (7).

(3) In rule 13—

- (a) in paragraph (2)—

- (i) in sub-paragraph (c), for “by the Representation of the People Act 1981” substitute “under section 16(A1) of the 2006 Act from being a Member of the Senedd, and from being a candidate to be a Member of the Senedd”;
- (ii) in sub-paragraph (d), for “section 5(6) of the 1998 Act” substitute “section 7(6) of the 2006 Act”;
- (iii) in sub-paragraph (e), for “section 4(7) of the 1998 Act” substitute “section 7(1) of the 2006 Act”;

(b) omit paragraph (8).

(4) In rule 14(4)(b), for “by the Representation of the People Act 1981” substitute “under section 16(A1) of the 2006 Act from being a Member of the Senedd, and from being a candidate to be a Member of the Senedd”.

(5) Omit rule 19.

## PART 5

### Withholding of candidate’s home address

#### **Amendment of article 37 (appointment of election agent)**

**45.**—(1) Article 37 (appointment of election agent) is amended as follows.

(2) In paragraph (9), after “agent” insert “who is not also a candidate”.

(3) After paragraph (9) insert—

“(10) Upon the name and address of an election agent who is also a candidate being declared to the returning officer—

- (a) the appropriate returning officer must give public notice of that name, and save where the agent has requested on a home address form not to make his home address public, the address. If the address is not to be made public, the constituency or country will be released, as required by Schedule 5 to this Order;
- (b) in the case of the regional election, the regional returning officer must give notice to the constituency returning officer for each Senedd Cymru constituency in the Senedd Cymru electoral region of the name, and save where the agent has requested on a home address form not to make his home address public, the address. If the

address is not to be made public, the constituency or country will be released, as required by Schedule 5 to this Order.”

**Amendment of Schedule 5 (Senedd Cymru election rules)**

**46.**—(1) Schedule 5 (Senedd Cymru election rules) is amended as follows.

(2) In rule 4 (nomination of candidates at a constituency election)—

(a) in paragraph (2)—

(i) in sub-paragraph (a), after “names;” insert “and”;

(ii) omit sub-paragraph (b);

(b) after paragraph (4) insert—

“(4A) The constituency nomination paper must be accompanied by a form (in this Schedule referred to as the “home address form”) which states the candidate’s—

(a) full names; and

(b) home address in full.

(4B) The home address form as set out in form CZ in Schedule 10—

(a) may contain a statement made and signed by the candidate that the candidate requires their home address not to be made public; and

(b) if it does so, must—

(i) state the constituency within which that address is situated; or

(ii) where the candidate’s home address is outside the United Kingdom, state the country in which it is situated.

(4C) Where a home address form has been completed and returned with the constituency nomination paper and the candidate has requested that their home address not be made public, the information as provided in paragraph (4B)(b) only will appear on the statement of persons nominated and the ballot paper.”;

(c) after paragraph (6) insert—

“(7)(a) During ordinary office hours on any day, after the latest time for delivery of constituency nomination papers and before the date of the poll, the following persons may inspect the home address form of a candidate (“candidate A”)—

- (i) a person standing nominated as a candidate (“candidate B”) in the same constituency as candidate A;
  - (ii) the election agent, proposer or seconder of candidate B; or
  - (iii) where candidate B is acting as their own election agent, any person nominated by candidate B;
- (b) where a person has been nominated by more than one constituency nomination paper, the reference to proposer or seconder in sub-paragraph (a)(ii) is a reference to—
- (i) the proposer or seconder on the nomination paper that the candidate may select; or
  - (ii) in the absence of such a selection, the nomination paper which was first delivered in accordance with rule 4(1);
- (c) nothing in this rule permits any person to take a copy of, or extracts from, any home address form;
- (d) the returning officer must not permit a home address form to be inspected otherwise than in accordance with this rule, or for some other purpose authorised by law.

(8)(a) The returning officer must destroy each candidate’s home address form—

- (i) on the next day following the 35th day after the officer has returned the name of the Member elected; or
- (ii) if an election petition questioning the election or return is presented before that day, as soon as is practicable following the conclusion of proceedings on the petition or on appeal from such proceedings;

(b) for the purposes of sub-paragraph (a), any day falling within rule 2 must be disregarded.”

(3) Rule 6 (nomination of individual candidates at a regional election) is amended as follows.

- (a) in paragraph (2)—
  - (i) in sub-paragraph (a), after “names;” insert “and”;
  - (ii) omit sub-paragraph (b);
- (b) after paragraph (4) insert—

“(4A) The individual nomination paper must be accompanied by a form (in this Schedule referred to as the “home address form”) which states the candidate’s—

- (a) full names; and
- (b) home address in full.

(4B) The home address form as set out in form CZ in Schedule 10—

- (a) may contain a statement made and signed by the candidate that the candidate requires their home address not to be made public; and
- (b) if it does so, must—
  - (i) state the constituency within which that address is situated; or
  - (ii) where the candidate’s home address is outside the United Kingdom, state the country in which is it situated.

(4C) Where a home address form has been completed and returned with the regional nomination paper and the candidate has requested that their home address not be made public, the information as provided in paragraph (4B)(b) only will appear on the statement of persons nominated and the ballot paper.”;

(c) after paragraph (5) insert—

“(6)(a) During ordinary office hours on any day, after the latest time for delivery of regional nomination papers and before the date of the poll, the following persons may inspect the home address form of a candidate (“candidate A”)—

- (i) person standing nominated as a candidate (“candidate B”) in the same region as candidate A;
  - (ii) the election agent, proposer or seconder of candidate B; or
  - (iii) where candidate B is acting as their own election agent, any person nominated by candidate B;
- (b) where a person has been nominated by more than one regional nomination paper, the reference to proposer or seconder in sub-paragraph (a)(ii) is a reference to—
- (i) the proposer or seconder on the nomination paper that the candidate may select; or
  - (ii) in the absence of such a selection, to the nomination paper which was

first delivered in accordance with rule 4(1);

- (c) nothing in this rule permits any person to take a copy of, or extracts from, any home address form;
- (d) the returning officer must not permit a home address form to be inspected otherwise than in accordance with this rule, or for some other purpose authorised by law.

(7)(a) The returning officer must destroy each candidate's home address form—

- (i) on the next day following the 35th day after the officer has returned the name of the member elected; or
  - (ii) if an election petition questioning the election or return is presented before that day, as soon as is practicable following the conclusion of proceedings on the petition or on appeal from such proceedings;
- (b) for the purposes of sub-paragraph (a), any day falling within rule 2 must be disregarded.”

(4) In paragraph (4) of rule 7 (nomination of parties and party list candidates at a regional election)—

- (a) in sub-paragraph (b), after “full” insert “only where the candidate has not requested that their home address be disclosed in a home address form”;
- (b) after sub-paragraph (b) insert—

“(c) where the candidate has requested that their home address not be made public—

- (i) state the constituency within which that address is situated; or
- (ii) where the candidate's home address is outside the United Kingdom, state the country in which it is situated.”

(5) In paragraph (2) of rule 16 (constituency election; publication of statement of persons nominated), after “addresses” insert “or such relevant information as provided in the home address form”.

(6) In paragraph (3)(a) of rule 17 (regional election: publication of statement of parties and other persons nominated), after “addresses” insert “or such relevant information as provided in the home address form”.

(7) In paragraph (3)(a) of rule 24 (the ballot paper at a constituency election), after “nominated” insert “(but

must not contain a candidate’s home address where a candidate has completed a home address form and requested that their address not be made public”.

(8) In paragraph (3)(a) of rule 25 (the ballot paper at a regional election), after “nominated” insert “(but must not contain a candidate’s home address where a candidate has completed a home address form and requested that their address not be made public)”.

#### **Amendment of Schedule 10 (appendix of forms)**

**47.** Schedule 10 (appendix of forms) is amended as follows.

**48.** In form CE (form of nomination paper: constituency election), in the 6<sup>th</sup> column of the table after “telephone number” insert “the constituency within which the home address is situated or the country of the home address, if it’s outside the United Kingdom”.

**49.** In form CH (form of individual nomination paper: regional election), omit the 6<sup>th</sup> column of the table entitled “Home address in full (please also include telephone number)”.

**50.** In form CI (form of party nomination paper: regional election), in the 5<sup>th</sup> column of the table after “telephone number” insert “the constituency within which the home address is situated or the country of the home address, if it’s outside the United Kingdom”.

**51.** In form CK (constituency ballot paper), after “Schedule 5” insert “and rule 24(3)(a) (the ballot paper at a constituency election) provides that the candidate’s home address be omitted from the Ballot paper where the candidate has completed a home address form requesting that their home address not be disclosed”.

**52.** After form CY insert the form in the Schedule to this Order.

## **PART 6**

### **Returning officers’ charges**

#### **Returning officers’ charges**

**53.—**(1) Article 23 (payments by and to returning officer) is amended as follows.

(2) In paragraph (1)—

- (a) omit “Subject to article 23A,”;
- (b) omit “services rendered, or”;
- (c) omit “the services were necessarily rendered, or”;

(d) omit “services rendered or”.

(3) In paragraph (2), in both places where it appears, omit “services or”.

(4) In paragraph (3)(b), omit “services or”.

(5) In paragraph (4)(a), omit “render the services or”.

**54.** Omit article 23A.

**55.** In paragraph 3(1) of Schedule 4, omit paragraph (aa).

## PART 7

### Electoral Commission

#### **Guidance by the Electoral Commission**

**56.** Omit article 63(8).

#### **Amendment of Schedule 7 (election expenses)**

**57.** In Schedule 7 (election expenses), after paragraph 13 insert—

## “PART 3

### Supplemental

#### **Guidance by the Commission**

**14.—**(1) The Commission may prepare, and from time to time revise, a code of practice for Senedd Cymru elections giving—

- (a) guidance as to the matters which do, or do not, fall within Part 1 or Part 2 of this Schedule;
- (b) guidance supplementing the definition in article 63(3) as to the cases or circumstances in which expenses are, or are not, to be regarded as incurred for the purposes of a candidate’s election.

(2) Once the Commission have prepared a draft code under this paragraph, they must submit it to the Welsh Ministers for approval.

(3) The Welsh Ministers may approve a draft code with or without modifications.

(4) Once the Welsh Ministers have approved a draft code they must lay a copy of the draft, in the form in which they have approved it, before Senedd Cymru.

(5) If the draft incorporates modifications, the Welsh Ministers must at the same time lay before Senedd Cymru a statement of their reasons for making them.

(6) If, within the 40-day period, Senedd Cymru resolves not to approve the draft, the Welsh Ministers must take no further steps in relation to it.

(7) If no such resolution is made within the 40-day period—

- (a) the Welsh Ministers must issue the code in the form of the draft laid before Senedd Cymru,
- (b) the code comes into force on the date appointed by the Welsh Ministers by order, and
- (c) the Commission must arrange for the Code to be published in such manner as the Commission thinks appropriate.

(8) Sub-paragraph (6) does not prevent a new draft code from being laid before Senedd Cymru.

(9) In this paragraph, “the 40-day period”, in relation to a draft code, means the period of 40 days beginning with the day on which the draft is laid before Senedd Cymru, no account being taken of any period during which Senedd Cymru is dissolved or is in recess for more than four days.

(10) In this paragraph, references to a draft code include a revised draft code.”

## PART 8

### Other amendments

#### **Amendment of article 2(1) (interpretation)**

**58.**—(1) Article 2(1) (interpretation) is amended as follows.

(2) Omit the definition of “the 2007 Assembly general election”.

(3) For the definition of “Presiding Officer of the Assembly” substitute—

““Presiding Officer of Senedd Cymru” is to be construed in accordance with section 25 of the 2006 Act;”.

#### **Amendment of article 137 (interpretation of Part 4)**

**59.** In article 137 (interpretation of Part 4), omit paragraph (2).

**Amendment of article 149 (saving and transitional provision as to incapacities in respect of Senedd Cymru elections)**

60. Omit article 149.

**Amendment of Schedule 5 (Senedd Cymru election rules)**

61.—(1) Schedule 5 (Senedd Cymru election rules) is amended as follows.

(2) In rule 14 (decisions as to validity of nomination papers)—

- (a) in paragraph (4)(c), for “section 5(5) of the 1998 Act” substitute “section 7(5) of the 2006 Act”;
- (b) omit paragraph (11).

(3) In rule 23 (poll to be taken by ballot)—

- (a) in paragraph (1), for “section 4(4) of the 1998 Act” substitute “section 6(4) of the 2006 Act”;
- (b) in paragraph (2), for “sections 4(5) and (6) and 5 to 7 of the 1998 Act” substitute “sections 6(5) and 7 to 9 of the 2006 Act”;
- (c) omit paragraph (3).

(4) In rule 62 (declaration of result at a constituency election), omit paragraph (5).

(5) In rule 65 (return or forfeiture of deposit)—

- (a) in paragraph (8)—
  - (i) in sub-paragraph (i), for “section 4(7) or section 8(7) of the 1998 Act” substitute “sections 7(1) and 10(9) of the 2006 Act”;
  - (ii) in sub-paragraph (ii), for “section 5(5) or, as the case may be section 5(6) of the 1998 Act” substitute “section 7(5) or, as the case may be section 7(6) of the 2006 Act”;
- (b) omit paragraph (9).

(6) In rule 78 (vacancies: return of electoral region members)—

- (a) in paragraph (11), omit “, in respect of a vacancy occurring before the 2007 Assembly general election, section 9(7)(b) of the 1998 Act and in respect of vacancies occurring after that election,”;
- (b) omit paragraph (12).

(7) In paragraph (7) of rule 79 (return of Senedd members and record of returns etc)—

- (a) in sub-paragraph (a), for the words from “, section 8(6) of the 1998 Act” until the end

substitute “section 10(7) of the 2006 Act; and”;

- (b) in sub-paragraph (b), for the words from “, section 9(7)(a) of the 1998 Act” until the end substitute “section 11(7)(a) of the 2006 Act.”

#### **Amendment of Schedule 9 (modification of Election Petition Rules 1960)**

**62.**—(1) Schedule 9 (modification of Election Petition Rules 1960) is amended as follows.

(2) In paragraph 3 (rule 2(3) of the 1960 Rules (prescribed officer)), omit “under Part 1 of the Government of Wales Act 1998 or, as the case may be,”.

(3) In paragraph 4 (rule 4(1) of the 1960 Rules (form of petition)), for sub-paragraph (2)(b) substitute—

“(b) “the Clerk of the Crown” shall be construed as a reference to the Clerk; and”.

(4) In paragraph 8—

(a) in sub-paragraph (a)—

(i) omit paragraph (i);

(ii) in paragraph (ii), for “any subsequent” substitute “an”;

(iii) omit paragraph (iii);

(iv) in paragraph (iv), for “any subsequent Assembly” substitute “a Senedd Cymru”;

(b) in sub-paragraph (b), for the words from “[*or, in the case of a return under section 9 of the Government of Wales Act 1998*]” to “[*section 11 of the Government of Wales Act 2006*]” substitute “[*or, in the case of a return under section 11 of the Government of Wales Act 2006, claims to have had a right to be returned under section 11 of the Government of Wales Act 2006*]”;

(c) in sub-paragraph (c)—

(i) omit “\* section 9(6) of the Government of Wales Act 1998/”;

(ii) omit “(\**delete as appropriate*)”;

(d) in sub-paragraph (e)(ii)—

(i) omit “\* section 9 of the Government of Wales Act 1998/”;

(ii) omit “(\**delete as appropriate*)”.

# SCHEDULE

Article 52

## Inserted form

FORM CZ – Rule 4 (4B) and 6 (4B) of Schedule 5									
Senedd Cymru Elections					Home address form				

Constituency name		Date of election	
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- You must complete Part 1
- Only complete Part 2 if you do not wish your home address to be made public.

Part 1: To be completed by all candidates	
Full name of candidate	
Home address (in full)	
Postcode	
End of Part 1.	

If you are only completing Part 1 please now deliver this form with the nomination paper to the Returning Officer with the relevant nomination paper.

Part 2: To be completed only if you do not wish your home address to be made public	
If you request that your home address is not made public then your address will not appear on the statement of persons nominated or the ballot paper.	
If you choose not to make your home address public, the constituency in which your home address is located (or country, if outside the UK) will appear on the statement of persons nominated and the ballot papers.	
Statement: I require my home address not to be made public.	
The constituency which my home address is located in:	(insert name of parliamentary constituency)
	Or
My home address is outside the UK. My home address is located in:	(insert name of country)
	Signature of candidate completing Part 2.
Candidate's signature:	
Date:	

Deliver to the Returning Officer with the relevant nomination paper.

## Consultation Response Form

Your name: Rob Thomas, Managing Director  
 Organisation (if applicable): Vale of Glamorgan Council  
 email / telephone number: drthomas@valeofglamorgan.gov.uk  
 Your address: Civic Offices, Holton Road, Barry CF63 4RU

**Question 1:** We would like to know your views on the proposed amendments to the Conduct Order. Are the amendments workable? Do they have the effect intended by the changes to the primary legislation which gives rise to them? Are they clear and understandable?

The Senedd Cymru (Representation of the People) (Amendment) Order 2020 (“the Draft Order”), which propose to amend the 2007 Order/Conduct Order as drafted addresses the key requirements as set out in the above question, and subject to the below the changes are supported.

There are a number of areas detailed in the Consultation Paper not addressed in the Draft Order (as referred to below) and therefore it would be premature to comment regarding those aspects which relate to the following:

- Provision to ensure that the rules in the Draft Order for absent voters’ records and the rules for the protection of information about 14 and 15 year old attainers in the Senedd and Elections (Wales) Act 2020 operate effectively together; and
- Provision for political parties to use the term “Welsh” or “Cymru” on registration and ballot papers.

Albeit welcomed, clarification is also required on the proposed payment to the Electoral Administration Team.

The proposed removal of the personal fees payable to the Returning Officer is not supported having regard to the significant role and personal responsibilities associated with the statutory obligations, the work load involved and the fact that the Returning Officer is personally answerable to the courts as opposed to the Local Authority. The full-time post of the officers undertaking the Returning Officer role have invariably been job evaluated when setting their salaries without taking into account the additional Returning Officer responsibilities.

Further, it is considered inappropriate to use a Local Authority’s resources in the form of the Returning Officer’s time to administer elections for the Senedd without the Senedd meeting the cost of the Officer’s time.

**Question 2:** We would like to know whether there are any other aspects of the Order you think may require updating or amending? Have there been any developments since the Order was last amended which necessitate changes to the Order?

It would assist to have regard to the finalised Draft Order containing a reference to the further proposals as detailed above to enable a complete response.

**Question 3:** We would like to know your views on the effects that the Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?

The Draft Order will have a positive impact on Welsh language.

**Question 4:** Please also explain how you believe the Order could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

No further comments.

**Question 5:** We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

No further comments.

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Number: WG39581



Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation Document

## The draft Senedd Cymru (Disqualification) Order 2020

Date of issue: 22 June 2020

Action required: Responses by 1 September 2020

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.  
This document is also available in Welsh.

## Overview

Section 16 of the Government of Wales Act 2006 allows an Order in Council to designate particular offices so that, if a person holds one of those offices, they are disqualified from being a Member of the Senedd<sup>1</sup> (but not from being a candidate to be a Member of the Senedd).

This consultation seeks your views on which offices should be included in the new Order, the Draft Senedd Cymru (Disqualification) Order 2020 which will revoke and replace the current Order, the National Assembly for Wales (Disqualification) Order 2015.

## How to respond

You can respond to this consultation by completing, by the closing date, the consultation response form at the back of this document and returning it to us by post to the address below. Arrangements have been put in place to ensure responses submitted by post are received during the COVID-19 pandemic.

Constitution and Justice  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

The consultation response form can also be returned to us by e-mail to:

[CAUMailbox@gov.wales](mailto:CAUMailbox@gov.wales)

When sending your response by e-mail, please mark the subject of your e-mail **Senedd Cymru (Disqualification) Order 2020 Consultation**

Alternatively an online consultation response form is available on our website

[www.gov.wales/consultations/?lang=en](http://www.gov.wales/consultations/?lang=en)

## Further information and related documents

**Large print, Braille and alternative language versions of this document are available on request.**

[National Assembly for Wales Constitutional and Legislative Affairs Committee: Inquiry into the Disqualification from Membership of the National Assembly for Wales - July 2014](#)

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<sup>1</sup> Part 2 of the Senedd and Elections (Wales) Act 2020 renamed the National Assembly for Wales, Acts of the Assembly and various bodies and offices relating to the Assembly. These changes took effect on 6 May 2020.

[Welsh Government Response to the Report on the Constitutional and Legislative Affairs Committee Inquiry into the Disqualification from Membership of the National Assembly for Wales](#)

[The National Assembly for Wales \(Disqualification\) Order 2015](#)

[Government of Wales Act 2006](#)

[Senedd and Elections \(Wales\) Act 2020](#)

[The National Assembly for Wales \(Representation of the People\) Order 2007](#)

**Contact details**

For further information:

Constitution and Justice  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

e-mail: [CAUMailbox@gov.wales](mailto:CAUMailbox@gov.wales)

## General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. The Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

## Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:  
Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ

The contact details for the Information Commissioner's Office are:  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

e-mail:

[Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

## **Background**

In 2014 the Senedd's Constitutional and Legislative Affairs (CLA) Committee carried out an inquiry into the rules pertaining to disqualification from membership of the Senedd<sup>2</sup>. This included 21 recommendations and proposed an overhaul of the legislative framework surrounding disqualifications from membership of the Senedd.

The Welsh Government agreed with the overall thrust of the CLA Committee report. The criteria for determining which offices were to be included in the National Assembly for Wales (Disqualification) Order 2015 were based on the principles set out in the CLA Committee's report with some additional considerations by the Welsh Government. This same criteria have continued to be used for the draft Senedd Cymru (Disqualification) Order 2020 which will revoke and replace the current Order.

## **Where are we now?**

Section 16 of the Government of Wales Act 2006 lists persons who are disqualified from being a Member of the Senedd. In addition to those offices listed in section 16, the Government of Wales Act 2006 provides for an Order in Council ("Disqualification Order") to designate further offices, the holders of which would be disqualified from becoming Members of the Senedd. Occasionally, other legislation may also provide for the holders of certain offices to be disqualified.

At present, the National Assembly for Wales (Disqualification) Order 2015 is still in force, therefore persons holding any of the offices listed in the 2015 Order are disqualified from membership of the Senedd.

## **The Senedd and Elections (Wales) Act 2020**

Other recommendations from the CLA Committee were that the Government of Wales Act 2006 be amended to provide that disqualification from a particular public office should in relation to certain posts take effect on taking the oath or affirmation of allegiance as a Member of the Senedd. Likewise that the relevant provisions in the National Assembly for Wales (Representation of the People) Order 2007 requiring candidates, when accepting nomination, to declare that to the best of their knowledge and belief, they do not hold a disqualifying office be amended to reflect this.

In relation to Senedd elections at which the poll is held on or after 5 April 2021<sup>3</sup>, Part 4 of the Senedd and Elections (Wales) Act 2020 amends section 16 of the 2006 Act to create a distinction between disqualification both from being a Member of the Senedd and from being a candidate for election to the Senedd, and disqualification from membership only.

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<sup>2</sup> Part 2 of the Senedd and Elections (Wales) Act 2020 renamed the National Assembly for Wales, Acts of the Assembly and various bodies and offices relating to the Assembly. These changes took effect on 6 May 2020. The National Assembly for Wales was renamed Senedd Cymru or the Welsh Parliament. It will be referred to in the remainder of this document as the Senedd.

<sup>3</sup> See section 42 (coming into force) of the Senedd and Elections (Wales) Act 2020.

Section 16 has also been amended to provide that persons holding an office specified in an Order in Council are not disqualified if the person resigns the office before taking the oath (or making the corresponding affirmation) as a Member of the Senedd.

By contrast, new provision has been inserted into section 16 of the 2006 Act to provide that a person is disqualified from being a Member, and from being a candidate to be a Member of the Senedd, if they fall within any of the categories of person specified in Part 1 of new Schedule 1A to the 2006 Act, or hold any of the offices specified in Part 2 of Schedule 1A (inserted by section 29 (7) of the Senedd and Elections (Wales) Act 2020). If a person who is disqualified from being a candidate for membership of the Senedd is nominated as a candidate at an election, the nomination is void<sup>4</sup>.

The draft Senedd Cymru (Disqualification) Order 2020 has been drafted to reflect these changes and should be read alongside these. So, where an office is now listed in the new Schedule 1A of the Government of Wales Act 2006 (as introduced by Schedule 3 to the Senedd and Elections (Wales) Act 2020) these offices have not been included in the new draft 2020 Order. **Annex A** contains a list of existing offices in the 2015 Order that are not in the 2020 Order for this reason.

Ahead of 5 April 2021 changes will be made to the National Assembly for Wales (Representation of the People Order) 2007 to amend the requirement for people to declare that they do not hold a disqualifying office before accepting nomination as a candidate.

### **Why is a new Disqualification Order needed?**

Prior to each Senedd general election a new Disqualification Order is made which revokes the previous Order and sets out an updated list of disqualifying offices.

Following consideration of the responses to this consultation, the Welsh Government will bring forward the draft Order for the Senedd's approval before formal submission to Her Majesty in Council later this year.

This consultation sets out the offices proposed to be included in the draft Senedd Cymru (Disqualification) Order 2020. This will sit alongside the disqualifications set out in section 16 of and Schedule 1A to the Government of Wales Act 2006, as amended by the Senedd and Elections (Wales) Act 2020 and any other specific disqualifications provided for in other legislation to produce the full list of disqualifying offices.

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<sup>4</sup> See section 18A of the Government of Wales Act 2006 as amended by section 34 of the Senedd and Elections (Wales) Act 2020.

## **Criteria for determining offices and membership of bodies for inclusion in the draft Senedd Cymru (Disqualification) Order 2020**

To the greatest extent possible under the current legislative framework, the following principles (which are a combination of the principles recommended in the CLA Committee's report together with some additional considerations from the Welsh Government response), have been used to determine which offices should be considered for inclusion in the draft Disqualification Order.

### General principles set out in recommendation 1 of the CLA Committee's report:

- Principle 1: Promoting democratic participation and the right to stand as a Member of the Senedd are paramount.

Principle 2: Disqualification from membership of Senedd Cymru should be restricted to as few citizens as possible.

Principle 3: Political activity is inappropriate for some citizens in order to:

- i. protect the independence of the electoral process;
- ii. prevent conflicts of interest arising on election; and
- iii. protect certain public offices from political bias.

Principle 4: The following citizens should be affected by a disqualification order:

- i. those whose role involves an over-riding requirement for impartiality, including those whose responsibilities include the electoral process itself;
- ii. those who hold any public office which carries with it a significant financial benefit from the Welsh Government;
- iii. those who hold public office and in that role provide formal advice to the Welsh Government;
- iv. those who hold any public office which is subject to scrutiny by the Senedd.

Principle 5: Where disqualifications are necessary they must be:

- i. in line with these principles;
- ii. clear and unambiguous;
- iii. proportionate.

- The offices described in recommendation 12 of the CLA Committee Report should be disqualifying offices, and should be included in the Disqualification Order unless they are already disqualifying offices under section 16 of the Government of Wales Act 2006.
- Members of judicial tribunals should be disqualified.
- Normally, persons appointed by Welsh Ministers should be disqualified, but there may be instances where such persons should not be disqualified (in which case consideration of the five principles referred to above will be important).
- Public staff as described in recommendation 13 of the CLA Committee Report (e.g. staff of National Park, Police, Fire and Rescue Authorities, staff of Welsh Government Sponsored Bodies) should not be disqualified – the Welsh Government believes it can

be safely assumed such staff would give up their employment if elected, as continuing with such employment at the same time as discharging Member of the Senedd responsibilities would make impossible demands on the individual.

## **Amendments**

To the best of our knowledge, we have ensured that the names of bodies referred to in the draft Order are current and correct. The draft 2020 Order contains:

- Certain additional offices disqualifying holders from membership of the Senedd where they fall under the above criteria;
- Existing offices renamed since the National Assembly for Wales (Disqualification) Order 2015;
- Existing offices which appear in the current National Assembly for Wales (Disqualification) Order 2015 to be retained.

**Annex B** lists the offices which were included in the 2015 Disqualification Order but which we do not propose to include in the 2020 Disqualification Order.

## **Consultation responses**

Your views are welcomed and a response form is provided at the back of this document. The questions ask for your views on the following:

### **Question 1:**

Do you agree that the offices set out in the draft Disqualification Order should be included in the next Disqualification Order?

### **Question 2:**

Are there any other offices not included in the draft Disqualification Order, (that are not otherwise disqualified under the Government of Wales Act 2006 or other legislation), that you believe should be disqualified from membership of the Senedd? If yes, what should be included and why?

### **Question 3:**

If you have any related issues which we have not specifically addressed in the above questions, please report them.

### **Question 4:**

We would like to know your views on the effects that the draft Disqualification Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

### **Question 5:**

Please also explain how you believe the draft Disqualification Order could be formulated or be changed so as to have positive effects or increased positive effects on

opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

**Question 6:**

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please report them.

**Annex A – Offices which are already disqualified from candidature for and membership of the Senedd**

<b>The holders of the following offices were included in the 2015 Order but are not included in the draft 2015 Order (because they are included in the new Schedule 1A to the Government of Wales Act 2006 as introduced by Schedule 3 to the Senedd and Elections (Wales) Act 2020)</b>	
<b>Offices and bodies in respect of which there are disqualifying offices</b>	<b>The disqualifying offices</b>
Children's Commissioner for Wales	Commissioner and Deputy Commissioner
Civil Service Commission	First Civil Service Commissioner and all Commissioners
Commissioner for Public Appointments	The Commissioner
Comptroller and Auditor General	The Comptroller and Auditor General
Electoral Commission	All members and staff
Future Generations Commissioner for Wales	The Commissioner
Her Majesty's Chief Inspector of Education and Training in Wales	The Chief Inspector
Independent Remuneration Panel for Wales	All members
Local Democracy and Boundary Commission for Wales	Chief Executive and all members
Older People's Commissioner for Wales (Commissioner for Older People in Wales)	Commissioner and Deputy Commissioner
Parliamentary Commissioner for Administration	The Commissioner
Returning officer for a constituency or an electoral region of Senedd Cymru	
Welsh Language Commissioner	Welsh Language Commissioner, Deputy Welsh Language Commissioner and members of the Advisory Panel to the Welsh Language Commissioner

## **Annex B**

**The following offices were also disqualified in the 2015 Order but are not included in the draft 2020 Order:**

- **All members of the Independent Social Services Complaints Panel.** This ceased with the coming into force of the Social Services Complaints Procedure (Wales) Regulations 2014.
- **All members and Chief Executive of the Technology Strategy Board known as Innovate UK.** Innovate UK has become a statutory committee of UK Research and Innovation (UKRI). This change in Innovate UK's status was brought about by the Higher Education and Research Act 2017.

## Consultation Response Form

Name:

E-mail:

Telephone:

Address:

Postcode:

Organisation  
(if applicable)

### Returning this form

The closing date for replies is **1 September 2020**

Please send this completed form to us by e-mail to:

[CAUMailbox@gov.wales](mailto:CAUMailbox@gov.wales)

When sending your response by e-mail, please mark the subject of your e-mail **Senedd Cymru (Disqualification) Order 2020 Consultation**

Alternatively, please complete the consultation response form and return by post to:

Constitution and Justice  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

**Question 1. Do you agree that the offices set out in the draft Disqualification Order should be included in the next Disqualification Order?**

Yes   
No

**If no, please explain**

**Question 2. Are there any other offices not included in the draft Disqualification Order, (that are not otherwise disqualified under the Government of Wales Act 2006 or other legislation), that you believe should be disqualified from membership of the Senedd? If yes, what should be included and why?**

Yes   
No

**If yes, what also needs to be included and why?**

**Question 3. If you have any related issues which we have not specifically addressed in the above questions, please use this space to report them:**

**Question 4. We would like to know your views on the effects that the draft Disqualification Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

**What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

**Question 5. Please also explain how you believe the draft Disqualification Order could be formulated or be changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

**Question 6. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:**

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

---

**2020 No.**

**CONSTITUTIONAL LAW**

**The Senedd Cymru (Disqualification) Order 2020**

*Made* \*\*\*

*Coming into force* \*\*\*

At the Court at [], the [] day of [] 2020

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 16(6) of the Government of Wales Act 2006(1) a draft of this Order was laid before, and approved by a resolution of, Senedd Cymru.

Accordingly, Her Majesty, in pursuance of sections 16(1) and (5) and 157(2) of that Act, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Title and commencement**

1.—(1) The title of this Order is the Senedd Cymru (Disqualification) Order 2020.

(2) It comes into force on [ ] but only has effect for the purposes of a Senedd Cymru election at which the poll is held on or after 5 April 2021.

**Designation of disqualifying offices**

2. The offices described in the Schedule are designated as offices disqualifying the holders of such offices from being Members of the Senedd.

**Revocation and saving**

3.—(1) Subject to paragraph (2), the National Assembly for Wales (Disqualification) Order 2015(2) is revoked.

(2) The Order referred to in paragraph (1) will continue to have effect in relation to a Senedd Cymru election at which the poll is held before 5 April 2021.

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(1) 2006 c. 32. Relevant amendments were made to section 16 by the Senedd and Elections (Wales) Act 2020 (anaw. 1).  
(2) S.I. 2015/1536.

*Name*  
Clerk of the Privy Council

## SCHEDULE

Article 2

### Offices disqualifying holders from membership of the Senedd

<i>Offices and bodies in respect of which there are disqualifying offices</i>	<i>The disqualifying offices</i>
A National Park authority for a National Park in Wales	All members
A tribunal constituted under section 27 of, and Schedule 3 to the Education Act 2005 <sup>(1)</sup>	All members
A tribunal referred to in paragraph 10 of Schedule 26 to the School Standards and Framework Act 1998 <sup>(2)</sup>	All members
Adjudication Panel for Wales	All members
Advisory Committee on Dangerous Pathogens	All members
The advisory committee for Wales established under section 5(1) of the Food Standards Act 1999 <sup>(3)</sup>	All members
Advisory, Conciliation and Arbitration Service	All members of the Council
Agricultural Land Tribunal for Wales	All members
Arts Council of Wales	All members
Big Lottery Fund	All members appointed under paragraph 1 of Schedule 4A to the National Lottery etc. Act 1993 <sup>(4)</sup> or of a committee established under paragraph 7(1)(b) of that Schedule
The Board of Community Health Councils in Wales	Chair, and members appointed by the Welsh Ministers under regulation 34(1)(f) of the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010 <sup>(5)</sup>
Board of Medical Referees	All members appointed by the Welsh Ministers <sup>(6)</sup>
Boundary Commission for Wales	Commissioners
British Broadcasting Corporation Board	All members
British Council	Chair and Chief Executive
British Tourist Authority	The member appointed by the Welsh Ministers
British Transport Police Authority	All members
Certification Officer and any assistant certification officer having functions under the Trade Union and Labour Relations (Consolidation) Act 1992 <sup>(7)</sup>	Certification Officer and any Assistant Certification Officer
Citizen Voice Body	Non-executive members
Consumer Council for Water	All members of the Council and each regional committee of the Council established under section 27A of the Water Industry Act 1991 <sup>(8)</sup>
Channel Four Television Corporation	All members
Community Health Councils	All members appointed under regulations 3(1), 6, 7 and 8, and members co-opted by the Welsh Ministers under regulation 3(3A), of the Community Health Councils (Constitution, Membership and Procedures) (Wales)

	Regulations 2010 <sup>(9)</sup>
Competition and Markets Authority	All members
Development Bank of Wales Public Limited Company or any wholly owned subsidiary of Development Bank of Wales Public Limited Company	All Directors
Education Workforce Council	All members
Emergency Ambulance Services Committee	Chair
Employment Tribunals and Employment Appeal Tribunal	All members
Financial Conduct Authority	All members
Fire and Rescue Service	Inspector or Assistant Inspector appointed under section 28 of the Fire and Rescue Services Act 2004 <sup>(10)</sup>
Firefighters' Pension Scheme Advisory Board for Wales	All members
First-tier tribunal	All members
Food Standards Agency	All members
Future Generations Commissioner	Advisory Panel
Gas and Electricity Markets Authority	All members
Health and Safety Executive	All members
Higher Education Funding Council for Wales	All members, other than a member who is also an employee of the Council
Human Fertilisation and Embryology Authority	All members
Human Tissue Authority	All members
Independent Adjudicator to Local Authorities in Wales	
Independent Case Examiner for the Department of Work and Pensions	The Independent Case Examiner
Independent Groundwater Complaints Administrator appointed under section 21 of and paragraph 27 of Schedule 7 to the Cardiff Bay Barrage Act 1993 <sup>(11)</sup>	
Independent Monitoring Authority for the Citizens' Rights Agreements	All members
Independent Office for Police Conduct	All members
Joint Nature Conservation Committee	All members
Local Government Pension Scheme Advisory Board	Chair and Deputy Chair
Local Health Board for an area in Wales	All members, other than a member who is also an employee of the Board
Marine Management Organisation	All members
Meat Promotion Wales	All members
Mental Health Review Tribunal for Wales	All members
National Employment Savings Trust Corporation	All members
National Health Service Trust all or some of whose hospital establishments or other facilities are situated in Wales	Chair and Non-Executive Director
National Library of Wales	Trustees appointed by the Welsh Ministers
National Museum Wales	Trustees appointed by the Welsh Ministers

Natural Resources Body for Wales	Chief Executive, Chair and members
Office of Communications	All members
The Pensions Advisory Service	Directors
Pensions Ombudsman appointed under section 145 of the Pension Schemes Act 1993 <sup>(12)</sup> and any deputy to that Ombudsman appointed under section 145A of that Act	All members, and the Ombudsman for the Board of the Pension Protection Fund appointed under section 209 of the Pensions Act 2004 <sup>(13)</sup> and any deputy to that Ombudsman appointed under section 210 of that Act
Pension Protection Fund	
Pensions Regulator	All members, and committee members established by the Pensions Regulator under section 9 of the Pensions Act 2004 <sup>(14)</sup>
Person holding a politically restricted post, within the meaning of Part 1 of the Local Government and Housing Act 1989 <sup>(15)</sup> , in:	
(a) a local authority in Wales, within the meaning of that Part,	
(b) a National Park Authority for a National Park in Wales	
Police and Crime Commissioner as established by section 1 of the Police Reform and Social Responsibility Act 2011 <sup>(16)</sup> , and any Deputy appointed by the Commissioner under section 18 of that Act	
Professional Standards Authority for Health and Social Care	All members
Qualifications Wales	All members
Rent assessment committees for an area or areas every part of which is in Wales	All members of a panel established under Schedule 10 to the Rent Act 1977 <sup>(17)</sup>
Royal Commission on the Ancient and Historical Monuments of Wales	Commissioners
Sianel Pedwar Cymru	All members
Social Care Wales	All members
Special Educational Needs Tribunal for Wales	All members
Special Health Authority performing functions partly or wholly in respect of Wales	Chair and all members, other than a member who is also an employee of the Authority
Sports Council for Wales known as Sport Wales	All members
Statistics Board established by the Statistics and Registration Service Act 2007 <sup>(18)</sup>	All members
Student Loans Company Limited	Chair and Chief Executive
Transport for Wales	Directors
UK Commission for Employment and Skills	Chair and Chief Executive, or a Director or a Commissioner of that Commission appointed by the First Minister of Wales
Upper Tribunal	All members
Valuation Tribunal for Wales	All members
Wales Audit Office	All staff and auditors providing audit services to the Wales Audit Office or Auditor General for Wales
Water Services Regulation Authority	All members
Welsh Health Specialised Services Committee	Chair

Welsh Industrial Development Advisory Board	All members
Welsh Language Partnership Council	All members
Welsh Language Tribunal	All members
Welsh Revenue Authority	Chairperson and other non-executive members

- (1) 2005 c. 18. There have been amendments to Schedule 3 to this Act that are not relevant to this Order.
- (2) 1998 c. 31. There have been amendments to paragraph 10(2) of Schedule 26 to this Act by section 53 of, and paragraphs 8 and 16(1) and (2) of Part 2 of Schedule 7 to, the Education Act 2005.
- (3) 1999 c. 28.
- (4) 1993 c. 39.
- (5) S.I. 2010/288 (W. 37). Regulation 34(1)(f) was inserted by regulation 23(7) of the Community Health Councils (Constitution, Membership and Procedures) (Wales) (Amendment) Regulations 2015 (S.I. 2015/509 (W. 43)).
- (6) See paragraph 3 of Annex 2 to the Scheme in Schedule 1 of the Firefighters' Pension Scheme (Wales) Order 2007 (S.I. 2007/1072 (W. 110)) and paragraph 3 of Schedule 5 to the Scheme in Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007 (S.I. 2007/1073 (W. 111)).
- (7) 1992 c. 52.
- (8) 1991 c. 56. Section 27A was inserted by section 35(1) of the Water Act 2003 (c. 37).
- (9) S.I. 2010/288 (W. 37). Regulation 3(3A) was inserted by regulation 4(4), and regulation 6 was amended by regulation 6(2) and (3), of the Community Health Councils (Constitution, Membership and Procedures) (Wales) (Amendment) Regulations 2015 (S.I. 2015/509 (W. 43)).
- (10) 2004 c. 21. Relevant amendments were made to section 28 by section 11 of the Policing and Crime Act 2017 (2017 c. 3).
- (11) 1993 c. 42. There have been amendments to paragraph 27 of Schedule 7 to the Act not relevant to this Order.
- (12) 1993 c. 48. There have been amendments to section 145 of the Act not relevant to this Order.
- (13) 2004 c. 35. There have been amendments to section 209 of the Act not relevant to this Order.
- (14) 2004 c. 35. The Pensions Regulator is established by section 1 of the Act.
- (15) 1989 c. 42
- (16) 2011 c. 13. There have been amendments to section 1 of the Act not relevant to this Order.
- (17) 1977 c. 42. There have been amendments to Schedule 10 to this Act which are not relevant to this Order.
- (18) 2007 c. 18.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order designates offices whose holders are disqualified from being a Member of the Senedd (but not from being a candidate to be a Member of the Senedd). The offices are described in the Schedule to this Order.

Other disqualifying offices, together with categories of person disqualified from being a Member of the Senedd, are prescribed by section 16 of, and Schedule 1A to, the Government of Wales Act 2006 (c. 32). This Order should be read with those provisions.

This Order revokes, with savings, the National Assembly for Wales (Disqualification) Order 2015 (S.I. 2015/1536).

# Government of Wales Act 2006 c. 32

## para. 1



Law In Force

### Version 1 of 1

15 January 2020 - Present

### Subjects

Constitutional law

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TABLE

<i>Offices and bodies in respect of which there are disqualifying offices</i>	<i>The disqualifying offices</i>
Armed forces	Members of the Royal Navy, the Royal Marines, the regular army (as defined by <a href="#">section 374</a> of the <a href="#">Armed Forces Act 2006 (c. 52)</a> ) or the Royal Air Force, not including— <ul style="list-style-type: none"> <li>(a) an officer on the retired or emergency list of any of the regular armed forces of the Crown,</li> <li>(b) a person who holds an emergency commission in any of those forces,</li> <li>(c) a person who belongs to any reserve of officers of any of those forces,</li> <li>(d) a naval, army, marine or air force pensioner, or former soldier who is liable to be recalled for service, or</li> <li>(e) a person who is an Admiral of the Fleet, a Field Marshal or a Marshal of the Royal Air Force and does not for the time being hold an appointment in the naval, military or air force service of the Crown</li> </ul>
Auditor General for Wales or Archwilydd Cyffredinol Cymru	The Auditor General
Children’s Commissioner for Wales or Comisiynydd Plant Cymru	The Commissioner and deputy Commissioner
Civil service	Members of the civil service of the State, including the civil service of Northern Ireland, the Northern Ireland Court

	Service, Her Majesty's Diplomatic Service and Her Majesty's Overseas Civil Service
Civil Service Commission	The First Civil Service Commissioner and Civil Service Commissioners
Commission for Equality and Human Rights	The Commissioners
Commissioner for Older People in Wales or Comisiynydd Pobl Hyn Cymru	The Commissioner and deputy Commissioner
Commissioner for Public Appointments	The Commissioner
Comptroller and Auditor General or Rheolwr ac Archwilydd Cyffredinol	The Comptroller and Auditor General
Electoral Commission or Comisiwn Etholiadol	The Electoral Commissioners and members of the staff of the Commission
Electoral Registration Officers	Electoral registration officer for any area in Wales
Future Generations Commissioner for Wales or Comisiynydd Cenedlaethau'r Dyfodol Cymru	The Commissioner
Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru	The Chief Inspector
Independent Remuneration Board of the Senedd or Bwrdd Taliadau Annibynnol y Senedd	The members of the Board
Independent Remuneration Panel for Wales or Panel Annibynnol Cymru ar Gydabyddiaeth Ariannol	The members of the Panel
Judicial offices	<p>The following judicial offices—</p> <p>(a) Judge of the Supreme Court;</p> <p>(b) Judge of the High Court or Court of Appeal in England and Wales;</p> <p>(c) Judge of the Court of Session or Temporary Judge in Scotland;</p> <p>(d) Judge of the High Court or Court of Appeal in Northern Ireland;</p> <p>(e) Judge of the Court Martial Appeal Court;</p> <p>(f) Chairman of the Scottish Land Court;</p> <p>(g) Circuit Judge in England and Wales;</p> <p>(h) Sheriff principal, sheriff, summary sheriff, temporary</p>

	<p>sheriff principal, part-time sheriff or part-time summary sheriff in Scotland;</p> <p>(i) County Court Judge or deputy County Court Judge in Northern Ireland;</p> <p>(j) District Judge (Magistrates' Courts) (but not Deputy District Judge (Magistrates' Courts)) in England and Wales;</p> <p>(k) District judge (magistrates' courts) or deputy district judge (magistrates' courts) in Northern Ireland;</p> <p>(l) President of Welsh Tribunals or Llywydd Tribiwnlysoedd Cymru;</p> <p>(m) Judge of the Upper Tribunal;</p> <p>(n) legal member of the Upper Tribunal for Scotland;</p> <p>(o) Chief or other Child Support Commissioner for Northern Ireland or deputy Child Support Commissioner for Northern Ireland;</p> <p>(p) Chief or other Social Security Commissioner for Northern Ireland or deputy Social Security Commissioner for Northern Ireland</p>
Legislatures	Members of the legislature of any country or territory outside the United Kingdom
Lieutenancies	Lord-lieutenant or lieutenant of any area in Wales
Local Democracy and Boundary Commission for Wales or Comisiwn Ffiniau a Democratiaeth Leol Cymru	The members and chief executive of the Commission
Parliamentary Commissioner for Administration	The Commissioner
Police forces	<p>Members of any police force maintained by—</p> <p>(a) a local policing body (within the meaning given by <a href="#">section 101</a> of the <a href="#">Police Act 1996 (c. 16)</a>),</p> <p>(b) the Scottish Police Authority, or</p> <p>(c) the Northern Ireland Policing Board,</p> <p>and "<i>member</i>" in relation to a police force means a person holding office as a constable of that force</p>
Public Services Ombudsman for Wales or Ombwdsmon Gwasanaethau Cyhoeddus Cymru	The Ombudsman

Returning officers for Senedd elections	The returning officer for any Senedd constituency or Senedd electoral region
Senedd Commission	Members of the staff of the Senedd
Senedd Commissioner for Standards or Comisiynydd Safonau y Senedd	The Commissioner
Sheriffs	The high sheriff of any area in Wales
Welsh Language Commissioner or Comisiynydd y Gymraeg	The Commissioner, the Deputy Commissioner and the members of the Advisory Panel to the Welsh Language Commissioner

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## Notes

- 1 Added by Senedd and Elections (Wales) Act 2020 anaw. 1 [Sch.3 para.1](#) (January 15, 2020: insertion has effect for the purposes of a Senedd election at which the poll is held on or after April 5, 2021 as specified in 2020 anaw 1 s.42(1)(c))

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**Consultation Response Form**

Name:	Debbie Marles, Returning Officer & Electoral Registration Officer
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Telephone:	07713 359111
Address:	Vale of Glamorgan Council Civic Offices Holton Road Barry
Postcode:	CF63 4RU
Organisation (if applicable)	Vale of Glamorgan Council

**Question 1. Do you agree that the offices set out in the draft Disqualification Order should be included in the next Disqualification Order?**

Yes   
No

**If no, please explain**

**Question 2. Are there any other offices not included in the draft Disqualification Order, (that are not otherwise disqualified under the Government of Wales Act 2006 or other legislation), that you believe should be disqualified from membership of the Senedd? If yes, what should be included and why?**

Yes   
No

**If yes, what also needs to be included and why?**

**Question 3. If you have any related issues which we have not specifically addressed in the above questions, please use this space to report them:**

No comment

**Question 4. We would like to know your views on the effects that the draft Disqualification Order would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

**What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

No comment

**Question 5. Please also explain how you believe the draft Disqualification Order could be formulated or be changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.**

No comment

**Question 6. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:**

None

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: