



# Senedd and Elections (Wales) Act 2020

2020 anaw 1

## PART 4

### DISQUALIFICATION

#### **33 Exceptions from disqualification by virtue of being a member of a county or county borough council**

After section 17C of the 2006 Act (as inserted by section 32) insert—

##### **“17D Exception from disqualification by virtue of being a councillor: recently elected members**

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).
- (2) A Member of the Senedd who is returned at an election as a member of the council of a county or county borough in Wales is not disqualified under section 16(1)(zc) at any time before the person makes a declaration of acceptance of office under section 83 of the [Local Government Act 1972 \(c. 70\)](#).

##### **17E Exception from disqualification by virtue of being a councillor: ordinary election of councillors within 372 days**

- (1) This section applies if—
  - (a) a member of the council of a county or county borough in Wales is returned as a Member of the Senedd, and
  - (b) the expected day of the next ordinary election of members of the council is within the period of 372 days beginning with the day the person is so returned (“the return day”).

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*Status: This is the original version (as it was originally enacted).*

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- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
  - (a) beginning with the return day, and
  - (b) ending with the fourth day after the day of the next ordinary election of members of the council.
- (3) For the purposes of subsection (1)(b) the expected day of the next ordinary election of members of the council is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) For the purpose of determining the expected day, no account is to be taken of the possibility of—
  - (a) an order under section 37ZA(1) of the [Representation of the People Act 1983 \(c. 2\)](#) (power to vary ordinary day of local elections), or
  - (b) an order under section 87 of the [Local Government Act 2000 \(c. 22\)](#) (power to change year in which local election is held),
 being made after the relevant time.
- (5) References in this section and section 17F to the “day” of an election are to the day on which the poll at the election is held.

**17F Exception from disqualification by virtue of being a councillor: general election of Members of the Senedd within 372 days**

- (1) This section applies if—
  - (a) a Member of the Senedd is returned as a member of the council of a county or county borough in Wales, and
  - (b) the expected day of the next general election of Members of the Senedd is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
  - (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of Members of the Senedd.
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of Members of the Senedd is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general election being held on the day specified in section 3(1)—
  - (a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);
  - (b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.

- (5) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—
- (a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).
- (6) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—
- (a) if a proclamation under section 5(4) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 5(4) has been issued but a day has been proposed under section 5(1), that is the expected day;
  - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).
- (7) For the purpose of determining the expected day, no account is to be taken of the possibility of—
- (a) a day being proposed under section 4(1) (power to vary date of ordinary general election) after the relevant time, or
  - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.”