



# Local Government and Elections (Wales) Act 2021

2021 asc 1

## PART 1

### ELECTIONS

#### *Voting systems for elections to principal councils*

#### **5 Two voting systems**

- (1) There are two systems for electing councillors of a principal council in polls at contested elections—
  - (a) a simple majority system, and
  - (b) a single transferable vote system.
- (2) See local elections rules for provision about how each system works.
- (3) See sections 7 to 9 for provision about which system applies to a council and how the system that applies to a council is changed.
- (4) In this Part, “local elections rules” means—
  - (a) rules made under section 36A of the 1983 Act (inserted by section 13(3));
  - (b) rules made under section 36 of the 1983 Act that have effect by virtue of section 13(4).

#### **6 Key definitions**

- (1) A “simple majority system” means an electoral system where—
  - (a) each voter may cast as many votes as there are offices to be filled;
  - (b) in the case of an election for a single office, the candidate who receives the highest number of votes is elected;

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- (c) in the case of an election to fill more than one office, the candidates equal to the number of offices to be filled who receive the highest number of votes are elected.
- (2) A “single transferable vote system” means an electoral system where—
- (a) in the case of an election to fill more than one office—
    - (i) voters express a first preference for one candidate and may express second and further preferences for other candidates;
    - (ii) a quota for election is calculated from the number of votes and offices to be filled;
    - (iii) the first preferences are counted and any candidate whose first preference votes equal or exceed the quota is elected;
    - (iv) if insufficient candidates are elected under sub-paragraph (iii), the proportion of an elected candidate’s votes above the quota is redistributed according to voters’ further preferences;
    - (v) candidates who then reach the quota are elected and the candidate with the fewest votes is excluded;
    - (vi) the excluded candidate’s votes are redistributed according to voters’ further preferences;
    - (vii) if insufficient candidates are elected under sub-paragraphs (iv) to (vi), the steps described in those sub-paragraphs are repeated until all offices are filled;
  - (b) in the case of an election for a single office—
    - (i) voters express a first preference for one candidate and may express second and further preferences for other candidates;
    - (ii) an absolute majority of votes for election is calculated from the number of votes;
    - (iii) the first preferences are counted and, if a candidate’s first preference votes equal or exceed the absolute majority of votes, that candidate is elected;
    - (iv) if no candidate is elected under sub-paragraph (iii), the candidate with the fewest votes is excluded, the excluded candidate’s votes are redistributed according to voters’ further preferences and a candidate who then reaches the absolute majority is elected;
    - (v) if no candidate is elected under sub-paragraph (iv), the steps described in sub-paragraph (iv) are repeated until a candidate is elected.
- (3) The systems described in subsections (1) and (2) may include other provision for situations where—
- (a) following the steps described does not lead to a candidate being elected, or
  - (b) it would not be appropriate to follow the steps described.

(4) This section applies for the purposes of this Part.

## **7 The voting system that applies**

- (1) This section provides for the voting system that applies to electing councillors of a principal council in a poll at a contested election.
- (2) The simple majority system provided for by local elections rules applies, unless and until the council changes the voting system for the first time.

- (3) But in the case of a principal council constituted by regulations under Part 7 (mergers and restructuring), the voting system provided for in the regulations applies, unless and until the council changes the voting system for the first time after the first ordinary election of councillors to the council.
- (4) After a principal council has changed the voting system for the first time (including the first time after a principal council is established), the system to which the council has most recently decided to change applies (subject to subsection (6)).
- (5) If a principal council changes its voting system, the change takes effect at the first ordinary election of councillors that takes place after the council passes the resolution required by section 9 and continues in effect unless and until the system is changed again.
- (6) But in a poll for an election to fill a casual vacancy in the office of councillor that takes place before the first ordinary election of councillors after the principal council passes the resolution required by section 9, the voting system that applied at the last ordinary election applies.

## **8 Power to change the voting system**

- (1) A principal council may change the voting system that applies to the election of councillors of the council, subject to the requirements of this section and section 9.
- (2) If the voting system that applies to a council for the time being is the simple majority system provided for by local elections rules, the council may change it to the single transferable vote system provided for by those rules.
- (3) If the voting system that applies to a council for the time being is the single transferable vote system provided for by local elections rules, the council may change it to the simple majority system provided for by those rules.
- (4) The power to change the voting system under this section—
  - (a) is not to be the responsibility of an executive of the council under executive arrangements (within the meaning of section 10 of the 2000 Act);
  - (b) is not a function to which section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) applies.
- (5) Before a principal council exercises its power to change its voting system it must consult—
  - (a) the persons entitled to vote as electors at a local government election in its area;
  - (b) each community council in its area;
  - (c) such other persons as it considers appropriate.

## **9 Resolutions to exercise the power to change the voting system**

- (1) A principal council's power under section 8(1) must be exercised by resolution of the council in accordance with this section.
- (2) A resolution to exercise the power is not passed unless the number of councillors voting in favour of it at a meeting of the council is at least two-thirds of the total number of councillor seats on the council.

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- (3) A resolution to exercise the power is of no effect unless—
  - (a) the resolution is considered at a meeting specially convened for the purpose,
  - (b) written notice of the meeting is given to all councillors, and
  - (c) the meeting takes place after the end of a period of 21 days beginning with the day on which notice is given.
- (4) A resolution to exercise the power has no effect unless it is passed before 15 November of the year that is three years before the year in which the next ordinary election of the council is due to be held.
- (5) After a principal council has exercised the power, a further resolution to exercise the power has no effect unless two ordinary elections of the council have been held under the voting system to which it was changed.
- (6) A resolution to exercise the power passed during the period between two consecutive ordinary elections of the council has no effect if the council has previously voted on a resolution to exercise the power during that period at a meeting held in accordance with subsection (3).

## **10 Duty to notify when resolution passed**

- (1) If a principal council exercises its power to change the voting system under section 8, the council must notify the Welsh Ministers and the Local Democracy and Boundary Commission of the change.
- (2) The notification must—
  - (a) be made within a period of 14 days beginning on the day on which the resolution under section 9 was passed,
  - (b) confirm that the council has passed a resolution in accordance with section 9,
  - (c) specify the voting system that is to apply, and
  - (d) specify the date on which the resolution was passed.

## **11 Initial review by the Local Democracy and Boundary Commission**

- (1) After receiving a notification from a principal council under section 10, the Welsh Ministers may direct the Local Democracy and Boundary Commission for Wales (“the Commission”) to conduct an initial review of the area of the council.
- (2) Before giving a direction under subsection (1) the Welsh Ministers must consult—
  - (a) the Commission, and
  - (b) such persons representing principal councils as the Welsh Ministers consider appropriate.
- (3) A direction under subsection (1) to conduct an initial review may specify that one or more matters of a kind described in paragraph (a) or (b) are not to be considered in the initial review; and those matters are—
  - (a) matters set out in paragraph (b) of the definition of “electoral arrangements” in paragraph 3(1) of Schedule 1 (community councils’ electoral arrangements);
  - (b) matters set out in the definition of “relevant consequential changes” in paragraph 3(1) of Schedule 1.

- (4) A direction under subsection (1) must specify the voting system in relation to which the electoral arrangements are to be reviewed.
- (5) Schedule 1 makes provision in relation to initial reviews conducted by virtue of this section.

## **12 Restriction on number of councillors if single transferable vote system applies**

Where the single transferable vote system applies to the election of councillors for a principal council, the number of councillors for each electoral ward is to be no less than three, but no more than six.

## **13 Rules about the conduct of local elections in Wales**

- (1) The 1983 Act is amended as follows.
- (2) In section 36(1) (local elections in England and Wales), omit “and Wales”.
- (3) After section 36 insert—

### **“36A Rules for local elections in Wales**

- (1) Elections of councillors for local government areas in Wales must be conducted in accordance with rules made by the Welsh Ministers.
- (2) In relation to the election of councillors to a county council or a county borough council, rules under subsection (1) must—
  - (a) require polls to be conducted if elections are contested,
  - (b) establish the requirements for becoming a candidate for election,
  - (c) require votes at polls to be given by ballot, and
  - (d) provide for polls to be conducted under the voting systems authorised by sections 5 to 9 of the Local Government and Elections (Wales) Act 2021, which are a simple majority system and a single transferable vote system.
- (3) In relation to the election of community councillors for a community council, rules under subsection (1) must—
  - (a) require polls to be conducted if elections are contested,
  - (b) establish the requirements for becoming a candidate for election,
  - (c) require votes at polls to be given by ballot, and
  - (d) provide for polls to be conducted under a simple majority system.
- (4) Rules under subsection (1) may make any other provision for the conduct of elections of councillors for local government areas in Wales.
- (5) Rules made by the Welsh Ministers may, for the purposes of, in consequence of, or for giving full effect to rules made under subsection (1), make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (6) Rules under subsection (5) may amend, modify, repeal or revoke any enactment (including an enactment contained in this Act).

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- (7) Before making rules under this section, the Welsh Ministers must consult such persons as they consider appropriate.
  - (8) The requirement to consult imposed by subsection (7) may be satisfied by consultation undertaken before the coming into force of this section.
  - (9) The power to make rules under this section—
    - (a) is exercisable by statutory instrument;
    - (b) includes power to make different provision for different purposes.
  - (10) A statutory instrument containing rules under this section must not be made unless a draft of the instrument has been laid before and approved by resolution of Senedd Cymru.”
- (4) Rules made under section 36 of the 1983 Act that are in force immediately before the coming into force of subsection (3) of this section continue in effect, so far as they apply to elections of councillors for local government areas in Wales, as if the rules were made under section 36A(1) of that Act (inserted by subsection (3)); and references in any enactment to rules made under section 36A of the 1983 Act are to be read accordingly.
- (5) Until sections 5 to 9 of this Act come into force, section 36A(2)(d) of the 1983 Act has effect as if it made the following provision—
- “(d) provide for polls to be conducted under a simple majority system.”