

*Status: Point in time view as at 06/05/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, .SCHEDULE 2. (See end of Document for details)*

## .SCHEDULE 2

(introduced by section 23)

### MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1: ELECTIONS

#### PART 1

##### PRIMARY LEGISLATION

###### *Local Government Act 1972 (c. 70)*

- 1 (1) The 1972 Act is amended as follows.
- (2) In section 25 (term of office and retirement of councillors)—
  - (a) in subsection (1)—
    - (i) for “and Part 1” substitute “, Part 1 ”;
    - (ii) after “1983” insert “, and Part 1 of the Local Government and Elections (Wales) Act 2021 ”;
  - (b) in subsection (2)—
    - (i) for “divisions” substitute “ wards ”;
    - (ii) after “2013 (anaw 4)” insert “, or by regulations under paragraph 9 or 10 of Schedule 1 to the Local Government and Elections (Wales) Act 2021 ”;
  - (c) in subsection (3) for “division” substitute “ ward ”.
- (3) In section 80 (disqualifications for election and holding office as member of local authority)—
  - (a) in subsection (1), after “local authority”, where it first occurs, insert “ in England ”;
  - (b) in subsection (2), after “paid officer of a local authority” insert “ in England ”;
  - (c) omit subsection (3B);
  - (d) in the heading, for “local authority” substitute “ a local authority in England ”.
- (4) In section 86(1)(b) (declaration of vacancy of local authority member), after “otherwise than under” insert “ section 80A(1)(c) of this Act, ”.
- (5) In section 87(1)(date of casual vacancies), after paragraph (d) insert—
  - “(da) in the case of disqualification of a member of a local authority in Wales under paragraph (c) of section 80A(1), on the date on which the person becomes disqualified under that paragraph;”.
- (6) In section 89 (filling of casual vacancies in case of councillors), in subsection (6), at the end, insert “ in the case of a parish council or, in the case of a community council, made under section 36A of the 1983 Act ”.
- (7) In section 116 (members of local authorities not to be appointed as officers)—
  - (a) after “local authority”, in both places where it occurs, insert “ in England ”;
  - (b) in the heading, after “local authorities” insert “ in England ”.
- <sup>F1</sup>(8) .....

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- (9) In this Act, omit paragraph 2 of Schedule 6 (modification of sections 80 and 116 of the 1972 Act relating to assistants to the executive).

#### Textual Amendments

- F1** Sch. 2 para. 1(8) omitted (5.5.2022) by virtue of [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 13 para. 12](#); S.I. 2021/231, art. 6(v)

#### Commencement Information

- I1** Sch. 2 para. 1(1)(2) in force at 20.3.2021, see s. 175(3)(f)  
**I2** Sch. 2 para. 1(6) in force at 20.3.2021, see s. 175(3)(f)  
**I3** Sch. 2 para. 1(8) in force at 20.3.2021, see s. 175(3)(f)  
**I4** Sch. 2 para. 1(3)-(5)(7) in force at 17.11.2021 by S.I. 2021/1249, [art. 2\(b\)](#) (with art. 4)  
**I5** Sch. 2 para. 1(9) in force at 17.11.2021 by S.I. 2021/1249, [art. 2\(b\)](#)

#### *Representation of the People Act 1983 (c. 2)*

- 2 (1) The 1983 Act is amended as follows.
- (2) In section 7B (notional residence: declarations of local connection)—
- (a) in subsection (2A), omit paragraph (a);
  - (b) for subsection (2B), substitute—
 

“(2B) The requirements are that the person—

    - (a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or
    - (b) is being kept in secure accommodation.”;
  - (c) omit subsection (2C);
  - (d) in subsection (2D), for “for the purpose of restricting the liberty of persons under the age of 18” substitute “in the United Kingdom provided for the purpose of lawfully restricting the liberty of persons under the age of 18, other than a penal institution within the meaning given in section 3(2)(b)”.
- (3) In section 31(1A) (polling districts and stations at local government elections), for “division” substitute “ward”.
- (4) In section 36 (local elections in England and Wales)—
- (a) in the heading, omit “and Wales”;
  - (b) omit subsection (3AB);
  - (c) in subsection (4)—
    - (i) after “principal area” insert “in England”;
    - (ii) omit “a county borough”;
  - (d) omit subsection (5A);
  - (e) in subsection (6)—
    - (i) omit “and Wales”;
    - (ii) omit “or community”;
  - (f) in subsection (6A), omit “and Wales”.
- (5) After section 36A (rules for local elections in Wales) (as inserted by section 13(3) of this Act) insert—

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### **“36B Combination of local elections in Wales**

- (1) Where the polls at—
  - (a) the ordinary election of councillors of a Welsh county or county borough or an election to fill a casual vacancy occurring in the office of such a councillor, and
  - (b) the ordinary election of community councillors or an election to fill a casual vacancy occurring in the office of such a councillor,are to be taken on the same day and the elections are for related electoral areas, the polls at those elections must be taken together.
- (2) For the purposes of this section electoral areas are related if they are coterminous or if one is situated within the other.
- (3) Where the polls at any elections are combined under this section the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination must be apportioned equally among the elections.
- (4) The Welsh Ministers may by regulations make provision in connection with the combining of polls at any elections under this section including provision modifying the Representation of the People Acts in relation to such elections.
- (5) Before making regulations under this section the Welsh Ministers must consult such persons as they consider appropriate.
- (6) The requirement to consult imposed by subsection (5) may be satisfied by consultation undertaken before the coming into force of this section.
- (7) The power to make regulations under this section is exercisable by statutory instrument.
- (8) Regulations must not be made under this section unless a draft of the regulations has been laid before and approved by a resolution of Senedd Cymru.

### **36C Expenditure by returning officers at local elections in Wales**

- (1) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a county or county borough in Wales must, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.
- (2) All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor must, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the county or county borough in which the community is situated (“the principal council”), exceed that scale, be paid by the principal council; and if the principal council so require, any expenditure so incurred must be repaid to them by the community council.
- (3) Before a poll is taken at an election of a councillor for any local government area in Wales the council of that area or, in the case of an election of

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a community councillor, the council who appointed the returning officer must, at the request of the returning officer (including any person acting as returning officer), advance to the officer such reasonable sum in respect of the officer's expenses at the election as the officer may require.”

- (6) Regulations made under section 36(3C) of the 1983 Act that are in force immediately before the coming into force of section 13(2) continue in effect, so far as they apply to elections of councillors for local government areas in Wales, as if the regulations were made under section 36B(4) of that Act (as inserted by sub-paragraph (5)).
- (7) In section 39 (election to fill vacancy where local election void etc.)—
- (a) in subsection (5)(a), after “section 36” insert “ or section 36A ”;
  - (b) in subsection (6), in paragraphs (a)(i) and (b)(i), after “section 36” insert “ or section 36A ”.
- (8) In section 40(3) (computing periods of time for local elections), after “section 36” insert “ or section 36A ”.
- (9) In section 46 (further provision as to local election voting)—
- (a) in subsection (1), after “area”, where it first occurs, insert “ in England ”;
  - (b) in subsection (2), after “election” insert “ in England ”;
  - (c) in the heading, after “voting” insert “ in England ”.
- (10) After section 46 insert—

**“46A Further provision as to local election voting in Wales**

- (1) Subsection (2) applies to a local government election for an electoral area in Wales where a simple majority system applies.
  - (2) An elector or person acting as proxy for an elector—
    - (a) may not give more than one vote for any one candidate;
    - (b) may not give more votes in all than the total number of councillors to be elected for the electoral ward.
  - (3) Subsection (4) applies to an election for an electoral ward of a county council or county borough council in Wales where a single transferable vote system applies.
  - (4) An elector or a person acting as proxy for an elector may not give more than one vote (whether as first preference or any subsequent preference) for any one candidate.
  - (5) No person is subject to an incapacity to vote at a local government election in Wales by reason of the fact that the person is, or is acting as, the returning officer at that election.”
- (11) In section 48(1) (validity of local elections), after “section 36” insert “ , section 36A ”.
- (12) In section 49(5)(b) (effect of registers), after sub-paragraph (iv) insert—
- “(v) in the case of a person registered as a local government elector in Wales or entered in the list of proxies by virtue of being a qualifying foreign citizen, a qualifying foreign citizen.”.

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- (13) In the following provisions, after “section 36” insert “ or section 36A ”
- (a) section 90(1)(b) (election expenses at election of community or parish councillors);
  - (b) section 94(2) (imitation poll cards at local elections);
  - (c) section 96(1) (entitlement to use rooms for local election meetings);
  - (d) section 97(2)(b) (disturbances at local election meetings).
- (14) In section 99(1)(b) (officer or clerk not to act as candidate's agent), after “section 36” insert “ , section 36A ”.
- (15) In section 139(6) (trial of election petition: equality of votes), in the words before paragraph (a), and in paragraph (a), after “section 36” insert “ , section 36A ”.
- (16) In section 187(1) (application of Act to community council elections etc.) after “section 36” insert “ or section 36A ”.
- (17) In section 202(1) (general interpretation provisions), in the definition of “voter” after “section 36” insert “ , 36A ”.
- (18) In section 203(1) (local government provisions as to England and Wales)—
- (a) in the definition of “electoral area”, for paragraph (a) substitute—
    - “(a) in England, any electoral division or ward or, in the case of a parish in which there are no wards, the parish, for which the election of councillors is held under the local government Act;
    - (aa) in Wales, any electoral ward of a county council or county borough council or community ward or, in the case of a community in which there are no wards, the community, for which the election of councillors is held under the local government Act;”;
  - (b) in the appropriate place, insert—
    - ““simple majority system” has the meaning given by section 6(1) of the Local Government and Elections (Wales) Act 2021;
    - ”single transferable vote system” has the meaning given by section 6(2) of the Local Government and Elections (Wales) Act 2021.”

#### Commencement Information

- I6** Sch. 2 para. 2(1) in force at 20.3.2021, see s. 175(3)(f)
- I7** Sch. 2 para. 2(2) in force at 21.1.2021, see s. 175(1)(k)
- I8** Sch. 2 para. 2(3)-(8) in force at 20.3.2021, see s. 175(3)(f)
- I9** Sch. 2 para. 2(9)(10) in force at 6.5.2022, see s. 175(6)(c)
- I10** Sch. 2 para. 2(11) in force at 20.3.2021, see s. 175(3)(f)
- I11** Sch. 2 para. 2(12) in force at 20.3.2021, see s. 175(3)(f) (subject to s. 3)
- I12** Sch. 2 para. 2(13)-(18)(a) in force at 20.3.2021, see s. 175(3)(f)
- I13** Sch. 2 para. 2(18)(b) in force at 6.5.2022, see s. 175(6)(c)

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*Representation of the People Act 1985 (c. 50)*

- 3 In section 15(2) of the Representation of the People Act 1985 (combination of polls), after “section 36” insert “ or section 36B ”.

**Commencement Information**

**I14** [Sch. 2 para. 3](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Parliamentary Constituencies Act 1986 (c. 56)*

- 4 In rule 9(3)(b) of Schedule 2 to the Parliamentary Constituencies Act 1986 (meaning of “local government boundaries”), for “divisions” substitute “ wards ”.

**Commencement Information**

**I15** [Sch. 2 para. 4](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Local Government and Housing Act 1989 (c. 42)*

- 5 In section 12 of the Local Government and Housing Act 1989 (conflict of interest in staff negotiations), in subsection (2) after “section 80(1)(a)” insert “ or section 80C(1) ”.

**Commencement Information**

**I16** [Sch. 2 para. 5](#) in force at 17.11.2021 by [S.I. 2021/1249](#), [art. 2\(b\)](#)

*Local Government (Wales) Act 1994 (c. 19)*

- 6 In paragraph 68 of Schedule 16 to the Local Government (Wales) Act 1994 (consequential amendments)—
- (a) in sub-paragraph (8) omit the words from “and after that subsection insert —” to the end;
  - (b) omit sub-paragraph (9);
  - (c) in sub-paragraph (10) omit the words from “and after that subsection insert —” to the end.

**Commencement Information**

**I17** [Sch. 2 para. 6](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Environment Act 1995 (c. 25)*

- 7 In paragraph 2(4) of Schedule 7 to the Environment Act 1995 (local authority members of National Park authorities), for “ divisions ” substitute “ wards ”.

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#### Commencement Information

**I18** Sch. 2 para. 7 in force at 20.3.2021, see s. 175(3)(f)

#### *Representation of the People Act 2000 (c. 2)*

- 8 (1) The Representation of the People Act 2000 is amended as follows.
- (2) In section 11 (revision of procedures in light of pilot schemes)—
- (a) in subsection (6)—
    - (i) omit “and Wales”;
    - (ii) after the second occurrence of “made” insert “ in relation to local government elections in England ”;
  - (b) after subsection (6), insert—

“(6A) Rules made under section 36A of the 1983 Act (local elections rules in Wales) may make such provision as the Welsh Ministers consider appropriate in connection with any provision made by an order under subsection (1) in relation to local government elections in Wales.”
- (3) In Schedule 4 (absent voting in Great Britain)—
- (a) in paragraph 1(1), in the definition of “the appropriate rules” in paragraph (b), after “section 36” insert “ , section 36A ”;
  - (b) in paragraph 6—
    - (i) in sub-paragraph (5), after “election” insert “ (other than a local government election in Wales) ”;
    - (ii) after sub-paragraph (5) insert—

“(5A) A person is not capable of voting as proxy at a local government election in Wales unless on the date of the election the person has attained the age of 16.”

#### Commencement Information

**I19** Sch. 2 para. 8(1)(2)(3)(a) in force at 20.3.2021, see s. 175(3)(f)

**I20** Sch. 2 para. 8(3)(b) in force at 20.3.2021, see s. 175(3)(f) (subject to s. 3)

#### *Local Government Act 2000 (c. 22)*

- 9 (1) The 2000 Act is amended as follows.
- (2) In section 85 (options for elections)—
- (a) in subsection (1) after “Part” insert “ as it applies in relation to a principal council for an area in England, ”;
  - (b) in that subsection, before “a principal council” insert “ such ”;
  - (c) in the heading, after “elections” insert “England”.
- (3) In section 86 (power to specify a scheme for elections), omit subsection (1).

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**Commencement Information**

**I21** [Sch. 2 para. 9](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Countryside and Rights of Way Act 2000 (c. 37)*

- 10 In paragraph 4(3) of Schedule 13 to the Countryside and Rights of Way Act 2000 (local authority members of conservation boards) for “divisions” substitute “wards”.

**Commencement Information**

**I22** [Sch. 2 para. 10](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Political Parties, Elections and Referendums Act 2000 (c. 41)*

- 11 In section 7(2)(d) of the Political Parties, Elections and Referendums Act 2000 (Electoral Commission to be consulted on changes to electoral law) omit “and Wales”.

**Commencement Information**

**I23** [Sch. 2 para. 11](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Government of Wales Act 2006 (c. 32)*

- 12 In section 17E of the Government of Wales Act 2006 (exception from disqualification of councillors from being Members of the Senedd), in subsection (4)(a), after “section 37ZA(1)” insert “ or (1A) ”.

**Commencement Information**

**I24** [Sch. 2 para. 12](#) in force at 20.3.2021, see [s. 175\(3\)\(f\)](#)

*Local Government and Public Involvement in Health Act 2007 (c. 28)*

- 13 (1) The Local Government and Public Involvement in Health Act 2007 is amended as follows.
- (2) In section 218 (definition of certain terms in enactments)—
- (a) in subsection (1), omit paragraph (a);
- (b) in subsection (2), omit “the Local Government Act 1972 (c. 70).”
- (3) In Schedule 14, in paragraph 2(3) omit the subsection (3B) to be inserted into section 80 of the 1972 Act.

**Commencement Information**

**I25** [Sch. 2 para. 13](#) in force at 17.11.2021 by [S.I. 2021/1249](#), [art. 2\(b\)](#)

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*Local Government (Wales) Measure 2011 (nawm 4)*

- 14 (1) The Local Government (Wales) Measure 2011 is amended as follows.
- (2) In section 56(3)(a) (exercise of functions by councillors), for “division” substitute “ward”.
- (3) In section 116(1)(b) (public notices relating to community council vacancy to be filled by co-option), for “section 36(2)” substitute “section 36A”.

**Commencement Information**

**I26** Sch. 2 para. 14 in force at 20.3.2021, see s. 175(3)(f)

*Senedd and Elections (Wales) Act 2020 (anaw 1)*

- 15 (1) The Senedd and Elections (Wales) Act 2020 is amended as follows.
- (2) In section 24 (protection of information of persons aged under 16)—
- (a) in subsection (2), in the definition of “absent voters record or list”, after paragraph (b) insert—
- “(c) so far as relating to local government elections, a record kept under paragraph 3(4) or 7(6) of Schedule 4 to the Representation of the People Act 2000 (c. 2) (absent voting);
- (d) so far as relating to local government elections, a list kept under paragraph 5 or 7(8) of that Schedule;”;
- (b) after subsection (2) insert—
- “(3) In sections 25 and 26, “local government election” means—
- (a) an election of councillors for any electoral ward or community ward in Wales or, in the case of a community in Wales in which there are no wards, the community, for which the election of councillors is held under the Local Government Act 1972 (c. 70), or
- (b) an election for the return of an elected mayor (within the meaning of section 39(1) of the Local Government Act 2000 (c. 22)) of a local authority in Wales.”
- (3) In section 25 (exceptions from prohibition on disclosure)—
- (a) in subsection (3), for “32ZA(5) and (5A)” substitute “32ZBD(9) and (9A)”;
- (b) in subsection (5)—
- (i) in paragraph (b), after “Senedd” insert “, a member of a local authority in Wales, an elected mayor of a local authority in Wales or candidates at local government elections ”;
- (ii) in paragraph (c), after “elections” insert “ or local government elections ”;
- (iii) for paragraph (e) substitute—
- “(e) regulation 61 of the 2001 regulations (absent voters records or lists) so far as applying to local government elections and any enactment making

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provision equivalent to that regulation in relation to Senedd elections.”;

(iv) for paragraph (f), substitute—

“(f) regulation 98 of the 2001 regulations (supply to returning officers) so far as applying to returning officers of community councils and returning officers for any Senedd elections and any enactment making provision equivalent to regulation 98(4) in relation to Senedd elections.”

(4) In section 26 (further provision for exceptions)—

(a) in subsection (1), after “Senedd” insert “, local government elections or local referendums ”;

(b) after subsection (4), insert—

“(5) In this section, “local referendum” means a referendum held under—

(a) section 27 of the Local Government Act 2000 (c. 22) or by virtue of regulations or an order made under Part 2 of that Act, or

(b) section 40 of the Local Government (Wales) Measure 2011 (nawm 2).”

#### **Commencement Information**

**I27** Sch. 2 para. 15 in force at 20.3.2021, see s. 175(3)(f) (subject to s. 3)

## **PART 2**

### SUBORDINATE LEGISLATION

#### *Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341)*

16 (1) The Representation of the People (England and Wales) Regulations 2001 are amended as follows.

(2) In regulation 32(1) after “(aza),” insert “ (azaa), ”.

(3) In regulation 42—

(a) in paragraph (1), after “(3),” insert “ (3A), ”;

(b) after paragraph (3), insert—

“(3A) To indicate that a qualifying foreign citizen is registered only in the register of local government electors in Wales, the letter “M” shall be placed against the person's entry.”

(4) In regulation 65(b)—

(a) omit “or (3AB)”;

(b) after “section 36” insert “ or subsection (1) of section 36B ”.

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**Commencement Information**

**I28** Sch. 2 para. 16(1) in force at 20.3.2021, see s. 175(3)(f)

*Representation of the People (Combination of Polls)  
(England and Wales) Regulations 2004 (S.I. 2004/294)*

- 17 (1) The Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 are amended as follows.
- (2) In regulation 4(10), in the definition of “relevant enactment”, in paragraph (b)—
- (a) omit “(3AB) or”;
  - (b) after “(3AC)” insert “, or section 36B(1) ”.
- (3) In regulation 5(1)—
- (a) in paragraph (c), after “election” insert “ in England, ”;
  - (b) after paragraph (c) insert—
    - “(ca) at a local government election in Wales, by those rules in the rules made under section 36A of the 1983 Act which correspond to the rules specified in paragraph (2);”.
- (4) In regulation 6—
- (a) in paragraph (1)(c)—
    - (i) after “section 36” insert “ of the 1983 Act ”;
    - (ii) omit “and Wales”;
    - (iii) before “of the 1983 ” insert “ and subsections (1) to (3) of section 36C ”;
    - (iv) after “Act” insert “ (local elections in Wales) ”;
  - (b) in paragraph (2) after “section 36(6)” insert “ and section 36C(3) ”;
  - (c) in paragraph (4)—
    - (i) omit “, (3AB)”;
    - (ii) after “(3AC)” insert “ or section 36B(1) ”.

**Commencement Information**

**I29** Sch. 2 para. 17 in force at 20.3.2021, see s. 175(3)(f)

*Business Improvement Districts (Wales) Regulations 2005 (S.I. 2005/1312)*

- 18 In regulation 6(1) of the Business Improvement Districts (Wales) Regulations 2005 (ballot holder), for the words from “whom” to the end substitute “ who, by virtue of section 35(1A) of the Representation of the People Act 1983, is the returning officer for elections to the relevant billing authority ”.

**Commencement Information**

**I30** Sch. 2 para. 18 in force at 20.3.2021, see s. 175(3)(f)

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*Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304)*

<sup>F2</sup>19 .....

**Textual Amendments**

**F2** Sch. 2 para. 19 omitted (10.3.2022) by virtue of The Local Elections (Miscellaneous and Consequential Amendments) (Wales) Regulations 2022 (S.I. 2022/263), reg. 1(2), **Sch. 4 para. 1(b)** (with reg. 12(g))

**Commencement Information**

**I31** Sch. 2 para. 19 in force at 20.3.2021, see s. 175(3)(f) (subject to s. 3)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, .SCHEDULE 2.