

Status: Point in time view as at 06/05/2022.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, Cross Heading: Representation of the People Act 1983 (c. 2). (See end of Document for details)

.SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 1: ELECTIONS

PART 1

PRIMARY LEGISLATION

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—

“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

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- (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 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

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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,”.
- (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).

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- (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

- I1** Sch. 2 para. 2(1) in force at 20.3.2021, see s. 175(3)(f)
- I2** Sch. 2 para. 2(2) in force at 21.1.2021, see s. 175(1)(k)
- I3** Sch. 2 para. 2(3)-(8) in force at 20.3.2021, see s. 175(3)(f)
- I4** Sch. 2 para. 2(9)(10) in force at 6.5.2022, see s. 175(6)(c)
- I5** Sch. 2 para. 2(11) in force at 20.3.2021, see s. 175(3)(f)
- I6** Sch. 2 para. 2(12) in force at 20.3.2021, see s. 175(3)(f) (subject to s. 3)
- I7** Sch. 2 para. 2(13)-(18)(a) in force at 20.3.2021, see s. 175(3)(f)
- I8** Sch. 2 para. 2(18)(b) in force at 6.5.2022, see s. 175(6)(c)

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