

WELSH ELECTIONS (CORONAVIRUS) ACT 2021

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 14 – Modifications of the 2007 Order

40. Section 13 of the 2006 Act gives the Welsh Ministers the power to make provision by order about the conduct of Senedd elections and the National Assembly for Wales (Representation of the People) Order 2007 (“the 2007 Order”) is an order made under that section.
41. This section modifies certain provisions of the 2007 Order for the purposes of the 2021 election.
42. Subsection (3) modifies article 84(2) of the Conduct Order and the point at which a person becomes a candidate in the election. This is currently tied to the dissolution of the Senedd. Section 3 of the Act shortens the dissolution period. Subsection (4) decouples the time at which a person becomes a candidate from the point of dissolution. The effect of the modification to article 84(2) is that, for the purposes of Part 3 of the 2007 Order, a person becomes a candidate 21 days before 6 May (calculated by disregarding certain days including a day that is a Saturday or a Sunday or a bank holiday). This is the date on which the Senedd would have dissolved for the ordinary general election on 6 May had section 3 of the Act not made provision to shorten the dissolution period. A person remains as a candidate for the purposes of Part 3 of the 2007 Order (barring their resignation or deselection, for example) even if the election is postponed in accordance with section 6 (or as the case may be, section 8) of the Act to a date later than 6 May 2021.
43. Subsection (4) makes an adjustment to paragraph 7 of Schedule 1 to the Conduct Order to allow emergency applications for proxy voting to be made where an elector or existing proxy finds they cannot reasonably be expected to vote in person because they are required to comply with an enactment relating to coronavirus or they are following guidance relating to coronavirus issued by the Welsh Ministers. Medical attestation for an application for an emergency proxy in these circumstances will not be required.
44. Subsection (5) modifies Schedule 5 (Senedd election rules) to the Conduct Order to introduce flexibility into the process for the delivery of nomination papers and candidates’ consent to nomination in response to the challenges presented by the coronavirus pandemic. The delivery of nomination papers and consent to nominations is a physical rather than a virtual process. The modification provides more time in each day for the delivery of nomination papers (9.00am to 5.00pm instead of 10.00am to 4.00pm). In addition, nomination papers can be delivered on a candidate’s behalf by a person nominated by the candidate for that purpose by providing the person’s name and address to the returning officer in writing or electronically before or at the time the nomination paper is delivered.
45. The final adjustment is in relation to candidates’ consent to nomination. Under the rules in Schedule 5 to the Conduct Order, there is no prescribed form for the consent to nomination, provided it is in writing, delivered to the Returning Officer in the specified

*These notes refer to the Welsh Elections (Coronavirus) Act
2021 (c.2) which received Royal Assent on 16 March 2021*

time and attested by a witness. Where a candidate is overseas, it can be delivered by facsimile or other similar means – and notably without the requirement for attestation by a witness. For the 2021 election, the Act modifies the rules in Schedule 5 to enable candidates to deliver their respective consent to nomination in the time specified for delivery of nomination papers either in writing at the place for delivery of those papers or electronically to an electronic address for that purpose. There is no requirement for a candidate's consent to nomination to be attested by a witness