

# **SENEDD AND ELECTIONS (WALES) ACT 2020**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These explanatory notes are for the Senedd and Elections (Wales) Act 2020 which was passed by the National Assembly for Wales on 27 November 2019 and received Royal Assent on 15 January 2020. They have been prepared by officials of the Assembly Commission on behalf of Elin Jones AM, the Member in Charge of the Act, to assist the reader of the Act.
2. The explanatory Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So, where a section or part of a section does not seem to require any explanation or comment, none is given.

### **Part 2**

#### **Renaming of the National Assembly for Wales**

3. This Part makes provision to change the name of the National Assembly for Wales to “Senedd Cymru” or “Welsh Parliament” and to make other associated changes. Acts of the National Assembly for Wales will become known as Acts of Senedd Cymru or Deddfau Senedd Cymru. Members of the National Assembly for Wales will be known as Members of the Senedd or Aelodau’r Senedd. Related bodies and persons, such as the Assembly Commission, the Clerk of the Assembly, the Remuneration Board and the Commissioner for Standards, will also be renamed.
4. This Part also makes amendments to other legislation, in particular the Government of Wales Act 2006 (“the 2006 Act”), the National Assembly for Wales Commissioner for Standards Measure 2009 (“the 2009 Measure”), and the National Assembly for Wales (Remuneration) Measure 2010 (“the 2010 Measure”). Section 150A(2) of the 2006 Act ensures that any references to the Assembly, the Assembly Commission or an Act of the Assembly in other legislation will reflect the new name when it is changed.

#### ***Section 2 – National Assembly for Wales renamed Senedd Cymru or Welsh Parliament***

5. **Section 2** replaces the reference in section 1 of the 2006 Act to “National Assembly for Wales” with “Senedd Cymru or the Welsh Parliament” (to be referred to in the remainder of the 2006 Act as “the Senedd”). Paragraph 2 (3)(a) of Schedule 1 to the Act makes a further amendment to section 1 of the 2006 Act in consequence of this to make it clear that there is to be a parliament (rather than an Assembly) for Wales. As noted, the 2006 Act will refer to the parliament as “the Senedd”.

#### ***Section 3 – Acts of the National Assembly for Wales renamed Acts of Senedd Cymru***

6. Section 107 of the 2006 Act confers power on the Assembly to pass legislation in relation to Wales called “Acts of the National Assembly for Wales” or “Deddfau Cynulliad Cenedlaethol Cymru” referred to in the 2006 Act, as “Acts of the Assembly”.

*These notes refer to the Senedd and Elections (Wales) Act 2020 (c.1) which received Royal Assent on 15 January 2020*

Section 3 amends section 107 (1) of the 2006 Act so that primary legislation passed by the Assembly following this section coming into force is to be called “Acts of Senedd Cymru or Deddfau Senedd Cymru” referred to in the 2006 Act as “Acts of the Senedd”).

#### ***Section 4 – Members to be known as Members of the Senedd***

7. [Section 4](#) provides that Members of the Assembly for Wales are to be known as Members of the Senedd or Aelodau'r Senedd.

#### ***Section 5 – Clerk of the Assembly renamed Clerk of the Senedd***

8. [Section 5](#) amends section 26(2) of the 2006 Act to provide that the Clerk of the Assembly is to be known as the Clerk of the Senedd or Clerc y Senedd.

#### ***Section 6 – National Assembly for Wales Commission renamed Senedd Commission***

9. [Section 6](#) replaces the reference in section 27(1) of the 2006 Act to “National Assembly for Wales Commission” with “Senedd Commission or Comisiwn y Senedd”.

#### ***Section 7 – National Assembly for Wales Commissioner for Standards renamed Senedd Commissioner for Standards***

10. [Section 7](#) replaces the reference to the “National Assembly for Wales Commissioner for Standards” in section 1 (1) of the 2009 Measure with “Senedd Commissioner for Standards”.

#### ***Section 8 – National Assembly for Wales Remuneration Board renamed the Independent Remuneration Board of the Senedd***

11. [Section 8](#) replaces the reference to the “National Assembly for Wales Remuneration Board” in section 1(1) of the 2010 Measure with the “board to be known as the Independent Remuneration Board of the Senedd”. Paragraph 2(4) of Schedule 1 also replaces the reference to the “National Assembly for Wales Remuneration Board” in section 20(8) of the 2006 Act with “Independent Remuneration Board of the Senedd”.

#### ***Section 9 – Minor and consequential amendments***

12. [Section 9](#) introduces Schedule 1 which makes minor and consequential amendments relating to Part 2 of the Act to other legislation.

### **Part 3**

#### **Elections**

##### **Extension of right to vote**

13. This Part makes provision for lowering the voting age and extending the franchise to qualifying foreign citizens at Senedd elections. The Part mostly contains amendments to existing electoral law, in particular the Representation of the People Act 1983 (“the 1983 Act”) and the [Representation of the People \(England and Wales\) Regulations 2001\(SI 2001/341\)](#) (“the 2001 Regulations”) which provide much of the operational detail on the registration system (amongst other things). The amendments made to Acts and regulations in this Part have effect only for the purposes of an election for membership of the Senedd.
14. This Part also amends the Political Parties Elections and Referendums Act 2000 to provide for oversight of the Electoral Commission (in respect of Senedd elections and local elections in Wales) to, in the future, fall to the Senedd. It also makes provision as

regards funding for those elections to be payable out of the Welsh Consolidated Fund and for connected auditing arrangements.

### ***Sections 10 and 11 - Extension of right to vote in Senedd elections***

15. [Sections 10](#) and [11](#) of the Act enable persons aged 16 and 17 years and qualifying foreign citizens to vote at Senedd elections held on or after 5 April 2021.
16. [Section 10](#) amends section 12 of the Government of Wales Act 2006 (“the 2006 Act”), which sets out who may vote at Senedd elections.
17. Section 12(1)(a) of the 2006 Act provides that the persons entitled to vote at Senedd elections are those who would be entitled to vote as electors at a local government election in Wales. Section 10 of this Act maintains that position but lowers the age at which a person may vote in Senedd elections to age 16 and above. Section 11 of this Act similarly extends the right to vote to qualifying foreign citizens.
18. The amendments to section 12 of the 2006 Act provide that a person is entitled to vote at Senedd elections if they would, but for the legal disabilities removed by the section, be entitled to register on the local government electoral register (see section 4 of the Representation of the People Act 1983). The disability removed by section 12 is the lack of legal capacity of a 16 and 17 year old person and a qualifying foreign citizen to vote in a local government election.

### **Electoral Registration**

#### ***Section 12 – Entitlement to be registered as a local government elector***

19. [Section 12](#) amends section 4 of the 1983 Act to specify who can be registered on the local government electoral register for the purposes of Senedd elections and so that the age at which a person is entitled to be registered as a local government elector is changed from age 18 or over to age 16 or over.
20. [Section 12](#) also amends section 203(1) of the 1983 Act to include a definition of “qualifying foreign citizen”.

#### ***Section 13 - Annual canvass***

21. [Section 13](#) makes amendments to the annual household canvass process in relation to local government electors in Wales as set out in the 1983 Act and 2001 Regulations.
22. [Section 13\(1\)](#) modifies the requirement for registration officers to make house to house inquiries for the purposes of maintaining the register of local government electors so that it does not apply to any person under the age of 16.
23. [Section 13\(2\)\(a\)](#) amends the 2001 Regulations so that the annual canvass form for local government electors requires the full name, date of birth and nationality of each person aged 14 and 15 who is eligible to register at the address. The provision allows the registration officer, for the purposes of an election for membership of the Senedd, to include on the register of local government electors those people who will be aged 16 by the time of the next Senedd election.
24. [Section 13\(2\)\(b\)](#) prevents registration officers from providing the date of birth of any person aged under 16 on pre-printed canvass forms.

#### ***Section 14 - Invitations to register***

25. [Section 14](#) amends provisions dealing with invitations to register in the 1983 Act and the 2001 regulations to include provision about persons under the age of 16.

26. **Section 14(1)** amends section 9E of the 1983 Act so that a registration officer may not impose a civil penalty on a person who fails to comply with a requirement to make an application to register where that person is under the age of 16.
27. **Section 14(2)** makes amendments to regulation 32ZC of the 2001 Regulations requiring that the invitation to apply for registration as a local government elector should, where the person invited is under the age of 16, include an explanation of how the person's information will be held and used.
28. **Section 14(3)** amends regulation 32ZD of the 2001 Regulations so that a registration officer is not required to visit the address of a person invited to register where the invitation is given to a person under the age of 16.
29. **Section 14(4)** amends regulation 32ZE by modifying the conditions that apply before a registration officer can require a person under the age of 16 to register. In such cases, there is no requirement on the officer to have informed the person that a civil penalty may be imposed if the person fails to apply for registration. It also removes the requirement to include information about the civil penalty where a notice requiring a person to register is sent to a person under the age of 16.

### ***Section 15- Invitation to register: further provision about persons under the age of 16***

30. **Section 15** provides the Welsh Ministers with the power to make regulations about invitations to apply to be registered as a local government elector in Wales. These regulations may need to be made as a consequence of lowering the voting age at Senedd elections, the franchise for which is tied to the local government register (see section 12 2006 Act).

### ***Section 16 - Application for registration***

31. **Section 16** makes a number of amendments to the 2001 Regulations in relation to applications for registration of local government electors in Wales.
32. **Section 16(3)(a)** amends regulation 26 so that it requires applicants who are not able to provide a date of birth to indicate whether they are under the age of 16, aged 16 or 17, or aged 18 or over.
33. The effect of the amendment in section 16(3)(b) is to require the Electoral Commission to include the additional information required in paragraph (1A) in its design of relevant application forms.
34. **Section 16(3)(c)** requires the Electoral Commission to include information on the Invitation to Register form specifying that, in the case of the registration of local government electors, persons who are not qualifying foreign citizens, Commonwealth citizens, citizens of the Republic of Ireland and relevant citizens of the Union are not eligible to be registered to vote.
35. **Section 16(3)(d)** requires the Electoral Commission to set out in relevant application forms how information about applicants for registration who are under the age of 16 will be held and used.
36. **Section 16(3)(e)** amends regulation 26 by removing the requirement for a National Insurance number to be provided when making an application for registration where the applicant is under the age of 16.
37. It also removes the requirement on registration officers to provide applicants with an explanation of the edited register where the applicant is under the age of 16 and the registration officer has authorised the applicant to provide the information required by telephone or in person. This is because no details of 14 or 15 year old persons will be included in the edited register.

38. **Section 16(4)** amends regulation 26B. Where the applicant is under the age of 16, the registration officer's power to require additional information under that regulation does not apply if there is information available to the registration officer from educational records, and that information satisfies the registration officer with regard to the applicant's identity and entitlement to be registered.
39. **Section 16(5)** removes the requirement in regulation 28 that an application to register, and any objection to such an application, must be made available for inspection, where an application is made by a person under the age of 16. The application details of persons under the age of 16 will not be published.
40. **Section 16(6)** provides that regulation 29ZA does not apply in cases where an application for registration is made by a person under the age of 16. Regulation 29ZA makes provision about verification of information provided in an application for registration which includes sending the information to be checked against records held by HM Revenue and Customs and the Department for Work and Pensions.

### ***Section 17 - Review of entitlement to registration***

41. **Section 17(2)** provides that regulation 31D(2)(b) does not apply where the subject of such a review is under the age of 16.
42. Regulation 31D(2)(b) of the 2001 Regulations requires a registration officer to make an entry in a list (which may be inspected) where the officer is not satisfied that the subject of a review is entitled to be registered.
43. **Section 17(3)** amends regulation 31E so that the requirement to keep a list of reviews does not apply where the subject of the review is under the age of 16.

### ***Section 18 – Anonymous registration***

44. **Section 18** adds to the list, in regulation 31J, of persons who may attest an application for anonymous registration made by a person under the age of 16 in relation to the registration of local government electors in Wales. It allows a person authorised by a director of social services in Wales to sign an attestation certifying that the safety of the applicant or other named person in the applicant's household would be at risk if the register contained the name or qualifying address of the applicant.

### ***Section 19 - Declaration of local connection***

45. **Section 19** amends section 7B of the 1983 Act in relation to the registration of local government electors in Wales.
46. **Section 7B** sets out the circumstances under which a person is permitted to make a declaration of local connection. The effect of a declaration of a local connection is that declarants can be registered by reference to an address which may not be the one at which they normally reside.
47. The amendments made by section 19(2) allow persons under the age of 18 to make a declaration of local connection where they are being looked after by a local authority or are being kept in any secure accommodation specified in regulations made by the Welsh Ministers in circumstances also specified in the regulations.
48. **Section 19(3)** amends sub section (3)(e) of the 1983 Act to require any declarations of local connection to state whether a person is a qualifying foreign citizen.
49. **Section 19(4)** amends section 7B(4) of the 1983 Act and sets out the address requirements for a person making a declaration of local connection under section 7B(2A). The address must be an address in Wales at which the person has previously been resident or be an address of a county or county borough council in Wales in which the person has previously been resident.

50. **Section 19(5)** clarifies that declarations made by virtue of section 7B(2A) of the 1983 Act will not have effect at UK parliamentary elections. It also clarifies that any other declarations of local connection made by a qualifying foreign citizen or persons under the age of 17 who are not entitled to be registered in the register of parliamentary elections will not have effect at UK parliamentary elections. It provides that the electoral registers should be marked to show the declarations of local connection that only apply to registration as a local government elector in Wales.
51. **Section 19(5)** also makes provision about how declarations of local connection should be marked on the register.

### ***Section 20 – Service declarations***

52. **Section 20(2)** amends section 14 of the 1983 Act to allow certain individuals under the age of 18 to hold a service qualification for the purposes of the 1983 Act. The individual under 18 must have a parent or guardian who has a service qualification and must be residing in a particular place in order to be with that parent or guardian. The effect of the amendment is that it extends for the purposes of Senedd elections the categories of persons who can make a service declaration. By being permitted to make a service declaration, eligible persons under the age of 18 may register to vote by reference to their home address (or previous address) in Wales, rather than the address to which their parent or guardian is posted on service (generally military service).
53. **Section 20(3)** amends section 15 of the 1983 Act by making provision for the cessation of the service qualification under section 14(1A) when the person who has made the service declaration reaches the age of 18. A service declaration made under section 14(1A) ceases to have effect when the person who made the declaration reaches the age of 18 and the person's entitlement to remain registered in the register of local government electors also ceases. When the entitlement to be registered ceases, the person's details must be removed from the register.
54. As with declarations of local connection, section 20(3)(b) clarifies that the provisions on service declarations inserted by this Act are only relevant for the purposes of a person's registration as a local government elector in Wales and do not have effect for the purposes of UK parliamentary elections.
55. **Section 20(4)** amends section 16 of the 1983 Act which makes provision about the contents of a service declaration.
56. The amendment provides that in relation to the registration of local government electors in Wales, a service declaration made by a person under the age of 18 as set out in section 14(1A) does not need to be attested.
57. **Section 20(5)(a)** amends section 17 of the 1983 Act to add reference to qualifying foreign citizens.
58. **Section 20(5)(b)** makes a consequential change to section 17 of the 1983 Act so that the general provision about the continuing effect of a service declaration is made subject to section 15(3A) of the 1983 Act.

### ***Section 21 - Contents of service declarations***

59. **Section 21** amends the 2001 Regulations by modifying existing provision and making additional provision about the contents of a service declaration in cases where a declarant claims a service qualification under section 14(1A). Section 21(2)(a) amends regulation 15 so that a person claiming a service qualification under section 14(1A) is not subject to the requirement to provide information under regulation 15(1)(c) but is required to provide the information specified in regulation 15A.

60. **Section 21 (2)(b)** amends the meaning of “Government Department” in regulation 15(3) in relation to the registration of local government electors in Wales so that it includes any organisation in which a Crown servant works.
61. **Section 21(3)** inserts regulation 15A into the 2001 regulations. The regulation makes provision about the information required in a service declaration where a person is claiming a service qualification under section 14(1A). These include details of the applicant’s parent or guardian who has a service qualification. For example, a declaration made on the basis of a parent or guardian who is a member of the armed forces must include the service, rank or rating, and service number, and regiment or corps (where appropriate) of that parent or guardian.

### ***Section 22 – Service declarations: further provision***

62. **Section 22** makes further provision about service declarations in amendments to the 2001 regulations.
63. **Section 22 (2)** amends regulation 25 and requires a registration officer to send a reminder to a person who has a service qualification under section 14(1A) of the 1983 Act that the service declaration will cease to have effect and that the entitlement to remain registered will cease when the person attains the age of 18.
64. **Section 22(3)(a)** amends regulation 26B so that a person claiming a service qualification under section 14(1A) is not subject to the requirement to provide the documents set out in paragraphs (2) to (6) of the regulation.
65. **Section 22(3)(b)** also amends regulation 26B by setting out the documents which a registration officer may require in the case of a person claiming a service qualification under section 14(1A). A registration officer may require the applicant to provide an original or a copy of the applicant’s passport or identity card. If a copy is provided it must be certified by a “relevant official”. Section 22(3)(b) inserts a definition of “relevant official” into regulation 26B and excludes from that definition the applicant’s parent, guardian, spouse or civil partner.

### ***Section 23 - Register of electors***

66. **Section 23** amends section 9 of the 1983 Act. The amendment provides that, where the register of parliamentary electors and the register of local government electors are combined and includes an entry for a person aged 16 or 17 who is registered only as a local government elector, the entry must give the date on which the person will attain the age of 18.
67. This will have the effect of ensuring that registration officers are alerted to when the elector reaches age 18, and actions may then be taken to ensure the accuracy of the combined register.

### ***Section 24 - Protection of information about persons aged under 16***

68. **Section 24** prohibits registration officers (and persons assisting them) from publishing, supplying or disclosing a young person’s information except where they are permitted to do so under this Act. “Young person’s information” is defined for the purposes of sections 24,25 and 26 as any entry in the register of local government electors, or an absent voters record or list relating to persons under the age of 16.

### ***Section 25 - Exceptions from prohibitions on disclosure***

69. **Section 25** sets out the circumstances under which a young person’s information may be disclosed.

70. [Section 25\(10\)](#) also provides that a person to whom a young person’s information is disclosed under subsection (2) or (6) must not pass on that information to another person, unless the disclosure is for the purposes of those subsections.
71. [Section 25\(11\)](#) provides that a person to whom a young person’s information is disclosed under subsection (2) or (6) commits a summary offence if the person passes on that information in breach of subsection (10).

### ***Section 26- Further provision for exceptions***

72. [Section 26](#) sets out the power of the Welsh Ministers to make regulations about the disclosure of a young person’s information in connection with elections to the Senedd.
73. [Section 26\(2\)](#) sets out a non- exhaustive list of the kind of provision that may be made in the regulations. This includes provision about:
- the persons to whom the information may be supplied;
  - the purposes for which the supply of the information may be made;
  - the restrictions that apply to the recipients of the information, and
  - the restrictions that apply to the persons who prepare the full register.
74. [Section 26\(3\)](#) allows for regulations to amend or repeal any of the exceptions from prohibition on disclosing young people’s information set out in [Section 24](#). Subsection (3) also allows regulations to create summary criminal offences about the disclosure of a young person’s information in connection with elections to the Senedd.
75. [Section 26\(4\)](#) requires the Welsh Ministers to consult such persons they consider appropriate before making regulations under this section.

### ***Section 27 – Amendments to the National Assembly for Wales (Representation of the People) Order 2007***

76. [Section 27](#) inserts a definition of “voting age” into the National Assembly for Wales (Representation of the People) Order 2007, meaning persons aged 16 or over. It amends the definition of “qualifying Commonwealth citizen” and inserts a new definition of “qualifying foreign citizen”. The Order makes detailed provision about the conduct of Senedd elections, including provision about voting and voters.
77. [Section 27\(3\)](#) allows for qualifying foreign citizens and all persons aged 16 and over to be nominated to act as a proxy voter for Senedd elections.

## **Oversight of administration of elections**

### ***Section 28 – Financial and oversight arrangements of the Electoral Commission***

78. This section inserts new paragraphs 16A to 16C, 20A and 20B into Schedule 1 to the Political Parties, Elections and Referendums Act 2000 and makes further amendments to that Schedule as a consequence of the addition of the new paragraphs.
79. New paragraph 16A provides for the funding of the work of the Electoral Commission, so far as it relates to elections to the Senedd and to local government in Wales, and to devolved Welsh referendums, to be payable out of the Welsh Consolidated Fund. It also requires the committees of the Senedd to include a committee chaired by the Presiding Officer or Deputy Presiding Officer and known as the Llywydd’s Committee or Pwyllgor y Llywydd. That Committee, will receive annual estimates of income and expenditure from the Electoral Commission attributable to the Commission’s work on elections to the Senedd and to local government in Wales and to devolved Welsh referendums. The Llywydd’s Committee will lay the estimate before the Senedd. Before doing so, the Llywydd’s Committee must be satisfied that the estimate is consistent



with the economical, efficient and effective discharge by the Electoral Commission of its functions as regards its work on elections to the Senedd and to local government in Wales and to devolved Welsh referendums.

80. If it is not so satisfied, the Llywydd's Committee must amend the estimate as it considers appropriate before laying it before the Senedd.
81. New paragraph 16B requires the Electoral Commission to set out a five-year plan for its activities as regards elections to the Senedd and to local government in Wales and for devolved Welsh referendums. A plan must be provided when:
  - the very first estimate (under new paragraph 16A) is submitted;
  - an estimate is submitted which relates to the first financial year to begin after the day on which Senedd Cymru meets following an ordinary general election of Members of the Senedd, and
  - an estimate is submitted and the Llywydd's Committee requires the Commission to submit a plan along with it.
82. That plan must be laid before the Senedd by the Llywydd's Committee. Before doing so, the Llywydd's Committee must be satisfied that the plan is consistent with the economical, efficient and effective discharge by the Electoral Commission of its functions regarding its work on elections to the Senedd and to local government in Wales and for devolved Welsh referendums. If it is not so satisfied, the Llywydd's Committee must make any modifications to the plan that it considers appropriate before laying it before the Senedd.
83. New paragraph 16C relates to the functions of the Comptroller and Auditor General ("CAG") as regards the estimate required by paragraph 16A and the plan required by paragraph 16B. Before the Llywydd's Committee considers both the estimate and plan, the CAG must carry out an examination of the economy, efficiency and effectiveness (or any combination of them) with which the Electoral Commission has used its funds in carrying out its functions in paragraph 16A and 16B, and report on that examination to the Llywydd's Committee.
84. This section also amends paragraph 18 of Schedule 1 to the Political Parties, Elections and Referendums Act 2000 to require the Auditor General for Wales ("AGW") to carry out a further examination of the Electoral Commission's accounts relating to the Commission's activities set out in paragraphs 16A and 16B if requested to do so by the Llywydd's Committee.
85. New paragraph 20A to Schedule 1 to the Political Parties, Elections and Referendums Act 2000 imposes reporting requirements on both the Electoral Commission and the Llywydd's Committee regarding their respective activities set out in paragraphs 16A and 16B. Those reports are to be laid before the Senedd.

## **Schedule 2**

### **Electoral Commission: Further Amendments**

86. This Schedule makes amendments to the Representation of the People Act 1983 ("the 1983 Act") and to the Political Parties Elections and Referendums Act 2000 ("PPERA").
87. Amendments to the 1983 Act permit the Electoral Commission to make a code of practice in relation to election expenses for local government elections in Wales.
88. The Welsh Ministers may approve the Code with or without modifications. They must then lay the Code, in draft form, before the Senedd. Within 40 days, the Senedd may make a resolution not to approve the draft Code. In that event, the Welsh Ministers must take no further steps in relation to it.

89. If no resolution is made, the Welsh Ministers must issue the Code in the form of the draft laid before the Senedd.
90. [Schedule 2](#) also inserts three new sections into PPERA.
91. New Section 6ZA requires the Electoral Commission to keep under review and report to Welsh Ministers on devolved elections and referendums and the law relating to them.
92. New Section 6G requires the Electoral Commission to prepare a code of practice on attendance at elections of representatives of the Commission, of accredited observers and of nominated members of accredited organisations. This provision relates to elections to the Senedd and to local government elections in Wales.
93. New Section 9AA permits the Electoral Commission to determine and publish standards of performance of (i) electoral registration officers for local government in Wales, (ii) returning officers for elections to the Senedd and (iii) counting officers for local government referendums.
94. The Schedule also makes consequential amendments to reflect the provisions set out above.

## **Part 4**

### **Disqualification**

95. [Part 4](#) of the Act amends the law on disqualification from membership of the Senedd. The provisions in Part 4 reflect some of the recommendations made by the Constitutional and Legislative Affairs Committee of the National Assembly in its report on disqualification in July 2014 - Inquiry into the Disqualification from Membership of the National Assembly for Wales.
96. Section 16(1)(a) and (2) of the 2006 Act currently provide that a person is disqualified from membership of the Senedd if the person is disqualified from being a member of the House of Commons. Part 4 of the Act repeals those provisions and inserts new provisions into the 2006 Act which identify all of the grounds of disqualification on the face of the 2006 Act rather than by reference to disqualification from membership of the House of Commons.
97. [Part 4](#) also amends the 2006 Act so that it distinguishes between the circumstances that are a bar to candidature for the Senedd and those offices that are a bar to taking up membership of the Senedd but not to candidature. The latter are those that are considered could give rise to a conflict of interest with membership of the Senedd, but where the conflicting office can be resigned before taking the oath, or making the affirmation, of allegiance.
98. The special arrangements already made in relation to Members of Parliament in sections 17A and 17B of the 2006 Act are retained. Those sections allow a person to be a member of both legislatures for a limited period in certain circumstances. The Act amends the 2006 Act so that special provision is likewise made in relation to members of the House of Lords and members of local authorities in Wales.
99. These changes will take effect for the purposes of an election for the Senedd at which the poll is held on or after 5 April 2021.

### ***Section 29 – Disqualification from being a Member of the Senedd***

100. [Section 29](#) amends section 16 of the 2006 Act to create a distinction between disqualification both from being a Member of the Senedd and from being a candidate for election to the Senedd, and disqualification from membership only. It also changes the way in which the 2006 Act sets out the grounds of disqualification.

*These notes refer to the Senedd and Elections (Wales) Act  
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101. Subsection (2) inserts a new subsection (A1) into section 16 of the 2006 Act. It provides that a person is disqualified from being a Member, and from being a candidate to be a Member of the Senedd, if they fall within any of the categories of person specified in Part 1 of new Schedule 1A to the 2006 Act, or hold any of the offices specified in Part 2 of Schedule 1A (inserted by section 29 (7) of the Act).
102. Subsection (3) amends section 16(1) of the 2006 Act to provide that members of the House of Commons, members of the House of Lords, members of councils of county or county boroughs in Wales, members of the Scottish Parliament, members of the Northern Ireland Assembly, members of the European Parliament and persons listed in any Order in Council made under section 16(1)(b) of the 2006 Act, are disqualified from membership of the Senedd but are not disqualified from being candidates.
103. Subsection (4) inserts a new subsection (1A) into section 16 of the 2006 Act which makes it clear that members of the Scottish Parliament, members of the Northern Ireland Assembly, members of the European Parliament and persons holding an office specified in an Order in Council are not disqualified if the person resigns the office before taking the oath (or making the corresponding affirmation) as a Member of the Senedd.
104. Subsections (3)(c) and (5) remove the current disqualifications that are linked to disqualifications from membership of the House of Commons. Section 29 (3)(e) removes paragraphs (c) to (e) from section 16(1) of the 2006 Act. Paragraphs (c) and (d) disqualified the Auditor General for Wales and the Public Services Ombudsman for Wales from membership of the Assembly. Paragraph (e) disqualified members of staff of the Assembly. Section 29 (5) removes the current disqualifications for certain persons (lord-lieutenant, lieutenant or high sheriff) in relation to a particular Senedd constituency or electoral region. The disqualifications removed by section 29(3) are retained, but are now included with other disqualifying circumstances in Schedule 1A to the 2006 Act. Schedule 1A provides for the disqualification of persons holding the office of lord-lieutenant, lieutenant or high sheriff for any area in Wales.
105. Subsection (7) introduces the new Schedule 1A. Part 1 of Schedule 1A sets out categories of persons who are disqualified; Part 2 sets out disqualifying offices. In each case, they disqualify persons from being candidates as well as Members of the Senedd.

***Section 30 - Exceptions and relief from disqualification***

106. **Section 30** amends section 17 of the 2006 Act. Subsection (2) removes the exception from disqualification for peers and Lords Spiritual (archbishops and bishops). It also removes the exception from disqualification for EU citizens resident in the UK born overseas which is no longer necessary given the repeal of section 16(2) of the 2006 Act. Equivalent provision is now made in the new Schedule 1A to the 2006 Act.
107. Subsection (3) amends section 17(3) of the 2006 Act so that the Senedd is able to grant relief and disregard a person's disqualification from membership of the Senedd if they are disqualified by virtue of section 16 (1) of the 2006 Act, but not if the person is also disqualified from being a candidate to be a Member of the Senedd by virtue of section 16(A1).

***Section 31 – Exception from disqualification by virtue of being a Member of Parliament: changes to the dates of general elections of Members of the Senedd***

108. Section 17B of the 2006 Act provides an exception from disqualification for an Assembly Member returned as a Member of Parliament within 372 days of the expected day of the next general election of Assembly Members. For the purpose of section 17B of the 2006 Act, the expected day of the next general election of Assembly Members is to be determined by reference to the circumstances at the beginning of the day of the return of the Assembly Member as a Member of Parliament. This is referred to as “the relevant time”.

109. **Section 31** amends section 17B of the 2006 Act so that it reflects the amendments made by the Wales Act 2017 to sections 3 and 4 of the 2006 Act, specifically in relation to the methods by which the date of an Assembly election may be moved.
110. **Section 31** also amends section 17B(4) of the 2006 Act to replace an incorrect reference to ‘an Order in Council’ to a proclamation to ensure consistency with section 5 of the 2006 Act as amended by the Wales Act 2017.

***Section 32 - Exception from disqualification by virtue of being a member of the House of Lords***

111. **Section 32** inserts a new section 17C into the 2006 Act. Members of the House of Lords were previously not disqualified from membership of the Senedd by virtue of section 17(1) of the 2006 Act (repealed by section 30(2) of this Act). Members of the House of Lords will in future be disqualified under section 16(1)(zb) of the 2006 Act (inserted by section 29(3)(b) of this Act), subject to the exceptions introduced by this section.
112. Under section 17(C) (1) of the 2006 Act, members of the House of Lords returned at an election as a Member of the Senedd will not be disqualified during the eight day period following their return. The eight day ‘grace period’ is intended to give newly elected Members sufficient time to make an application for leave of absence from the House of Lords. The House of Lords may grant leave of absence to a Member where the Member is temporarily unable to attend sittings of the House and where the Member has a reasonable expectation that he or she will again take part in proceedings of the House in future.
113. New section 17(C)(2) of the 2006 Act will similarly provide that Members of the Senedd who become members of the House of Lords will not be disqualified before the end of the period of eight days beginning with the day the person makes and subscribes the oath (or corresponding affirmation) as required by the Parliamentary Oaths Act 1866.
114. New section 17(C)(3) of the 2006 Act provides that a person is not disqualified from being a Member of the Senedd if they either have leave of absence from the House of Lords, or have made an application for leave which has not been withdrawn or refused.
115. New section 17(C)(4) of the 2006 Act will make it clear that a person who is on leave of absence from the House of Lords immediately before the UK Parliament is dissolved, is not disqualified from membership of the Senedd at any time between dissolution of the old Parliament and ending at the end of the period of eight days beginning with the day of the first meeting of the new Parliament. The purpose of this provision is to allow a Member of the House of Lords on leave of absence during one Parliament (and who wishes to continue that absence) sufficient time to renew their leave of absence from the House at the start of the new Parliament.

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

116. **Section 33** inserts new sections 17D, 17E and 17F into the 2006 Act. The sections provide for certain exceptions from disqualification from membership of the Senedd by virtue of being a member of the council of a county or county borough in Wales.
117. New section 17D of the 2006 Act would provide for an exception from disqualification for newly elected Members. A person returned as a Member at an election of the Senedd would not be disqualified until that person purported to make the oath of allegiance (or corresponding affirmation). A Member of the Senedd who is returned as a member of a council of a county or county borough in Wales would also not be disqualified until that person made a declaration of acceptance.

118. New section 17E of the 2006 Act provides for a time limited exception from disqualification if a member of the council of a county or county borough in Wales is returned as a Member of the Senedd; and the expected day of the next ordinary election of members of the council is within 372 days of the return day. Section 17E(2) provides that the ‘grace period’ from disqualification will begin on the return day and will end with the fourth day after the day of the next ordinary general election of members of the council. The expected date of the next ordinary election is to be determined by reference to the circumstances as at the beginning of the return day. This is known as “the relevant time”. Section 17E(4) provides that for the purposes of determining the expected date of the next ordinary general election, account is not to be taken of the various powers to change when the election may occur.
119. New section 17F of the 2006 Act provides for a time limited exception from disqualification if a Member of the Senedd was returned as a member of a council of a county or county borough in Wales and the expected day of the next general election to the Senedd is within 372 days of the return day. Section 17F(2) provides that the ‘grace period’ from disqualification will begin on the return day and will end immediately before the day of the next general election of Members of the Senedd. The expected date of the next ordinary election is to be determined by reference to the circumstances as at the beginning of the return day. This is known as “the relevant time”. Where, at the relevant time, section 5(2) or (3) (extraordinary general election) of the 2006 Act applies, section 17F(4) makes various provision as to what the “expected date” will be. Section 5 provides a mechanism for an extraordinary general election to take place before the next scheduled ordinary general election in certain circumstances.
120. **Section 5(2)** applies if the Assembly resolves by at least a two-thirds majority that it should be dissolved and section 5(3) applies where the period during which the Assembly is required to nominate a First Minister ends without such a nomination being made. Section 17F(5) provides that for the purposes of determining the expected date of the next ordinary general election, account is not to be taken of various powers to change when the election may occur.

### ***Section 34 – Effect of disqualification***

121. **Section 34** amends section 18 of the 2006 Act to insert a new subsection (A1). That subsection provides that if a person who is disqualified from being a candidate for membership of the Senedd is nominated as a candidate at an election, the nomination is void.
122. The section also repeals certain provisions in sections 18 and 19 of the 2006 Act which are no longer necessary as a result of section 29 of the Act. The repealed provisions all relate to the possibility of a person being disqualified in relation to a particular Senedd constituency or electoral region. That possibility only arises under section 16(4) of the 2006 Act, which is repealed by section 29(5).

### ***Section 35 - Consequential amendments***

123. This section makes consequential amendments to the 2006 Act, the Insolvency Act 1986, the 2009 Measure and the Public Services Ombudsman (Wales) Act 2019.

## **Part 5**

### **Miscellaneous**

124. This Part makes various amendments to the 2006 Act. It changes the date for the first meeting of the Senedd following an election. It also makes it clear that the Senedd Commission may charge for providing goods or services to the public.
125. It also includes a duty on the Welsh Ministers to prepare and publish a report on the operation of certain provisions of this Act.

***Section 36 – Timing of first meeting of Senedd after general election***

126. **Section 36** extends the deadline for the first meeting of the Senedd following an ordinary or extraordinary general election from 7 to 14 days.

***Section 37 – Powers of Senedd Commission: provision of goods and services***

127. **Section 37** substitutes paragraph 4 of Schedule 2 to the 2006 Act to make it clear that the Senedd Commission may charge for providing goods or services.

***Section 38 – Report on extension of right to vote and change to qualification for membership of the Senedd***

128. **Section 38** requires the Welsh Ministers to prepare, publish and lay before the Senedd a report on the operation of the provisions in the Act that:
- extend the right to vote in Senedd elections to persons who are aged 16 or 17;
  - extend the right to vote in Senedd elections to persons who are qualifying foreign citizens;
  - allow qualifying foreign citizens to be Members of the Senedd, and
  - disqualify members of county and county borough councils in Wales from being Members of the Senedd.
129. The report must be prepared and published within six months of the end of the reporting period.
130. The reporting period is the period of five years from the day of the next Senedd general election which takes place on or after 5 April 2021. The next Senedd general election is currently scheduled for May 2021.

**Part 6**

**General**

***Section 42 – Coming into force***

131. Subsection (1) sets out the provisions of the Act that come into force on the day on which the Act receives Royal Assent.
132. The provisions that reduce the voting age, extend the vote to qualifying foreign citizens and change the law on disqualification will only have effect from the Senedd general election scheduled for May 2021. Similarly, subsection (5) provides that section 36 (timing of the first meeting) will only apply after that election.
133. **Sections 12 to 26** of the Act which provide for persons aged 16 and 17 years and qualifying foreign citizens to register to vote come into force on 1 June 2020. These provisions only have effect from the Senedd general election scheduled for May 2021.
134. The provisions that relate to the Electoral Commission (section 28 and Schedule 2) will come into force by way of order made by the Welsh Ministers.
135. The provisions that change the name of the institution (Part 2 of the Act, including Schedule 1) will come into force on 6 May 2020.