Senedd and Elections (Wales) Act 2020

2020 anaw 1

PART 3

ELECTIONS

Electoral registration

12 Entitlement to be registered as a local government elector

(1) In section 4 of the Representation of the People Act 1983 (c. 2) ("the 1983 Act") (entitlement to be registered as a local government elector)—

(a) in subsection (3)(d), after "age" insert "or, if resident in an area in Wales, is 16 years of age or over";

(b) after subsection (3) insert—

"(3A) A person is also entitled to be registered in the register of local government electors for any electoral area in Wales if on the relevant date the person—

(a) is resident in that area,

(b) is not subject to any legal incapacity to vote (age apart) in an election of members (or of a member) of Senedd Cymru,

(c) is a qualifying foreign citizen, and

(d) is 16 years of age or over.";

(c) after subsection (5A) insert—

"(5B) In relation to a register of local government electors for any electoral area in Wales, the reference to "voting age" in subsection (5) is to be interpreted as "16 years of age"".

(2) In section 203(1) of the 1983 Act (local government provisions as to England and Wales) after the definition of "London member" insert—

""qualifying foreign citizen" means a person who—

(a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union, and

(b) either—

(i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or

(ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave."

13 Annual canvass

(1) In section 9A of the 1983 Act (registration officers: duty to take necessary steps), after subsection (2) insert—

"(2A) In relation to the registration of local government electors in Wales, subsections (1) and (2)(b) do not require a registration officer to make house to house inquires in relation to any person under the age of 16."

(2) In regulation 32ZA of the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) ("the 2001 Regulations") (annual canvass form)—

(a) after paragraph (3) insert—

"(3A) In relation to the registration of local government electors in Wales, the canvass form in paragraph (2) must also—

(a) require the full name and nationality of each person aged 14 or 15 who is eligible to register and is residing at the address to which the form is given, and

(b) in relation to any such person named in the form, require the person's date of birth to be included.";

(b) after paragraph (5) insert—

"(5A) In relation to the registration of local government electors in Wales, the registration officer must not, under paragraph (5), print on the form the date of birth of any person aged under 16."

14 Invitations to register

(1) In section 9E of the 1983 Act (maintenance of registers: invitations to register in Great Britain), after subsection (7) insert—

"(7A) In relation to the registration of local government electors in Wales, subsection (7) does not apply to a person who was under the age of 16 at the time the requirement was imposed."

(2) In regulation 32ZC of the 2001 Regulations (invitations to apply for registration), after paragraph (2) insert—

"(2A) In relation to the registration of local government electors in Wales, where the person to be invited is under the age of 16, the invitation in paragraph (1) must also include an explanation of how the person's information will be held and used."

(3) In regulation 32ZD of the 2001 Regulations (steps to be taken by a registration officer to encourage a person to make an application for registration in response to an invitation to do so), after paragraph (3) insert—

"(3A) In relation to the registration of local government electors in Wales, paragraph (3) does not require a registration officer to make, or have made, any visits in the case where the invitations were given to a person under the age of 16."

(4) In regulation 32ZE of the 2001 Regulations (requiring a person to make an application for registration), after paragraph (3) insert—

"(3A) In relation to the registration of local government electors in Wales, the following provisions of this regulation do not apply in the case of a person who is under the age of 16—

(a) paragraphs (2)(b)(iii) and (3)(b) and (c);

(b) paragraph (3)(f), so far as requiring a notice to state that the person may make representations about why a civil penalty should not be imposed."

15 Invitations to register: further provision about persons under the age of 16

(1) The Welsh Ministers may, by regulations, make provision about invitations to be given under section 9E(1) of the 1983 Act (invitations to apply for registration) in relation to the registration of local government electors in Wales.

(2) Regulations under subsection (1) may (among other things) include provision—

(a) about the form and content of invitations;

(b) about how and when invitations must be given;

(c) requiring invitations to be accompanied by, or combined with, application forms or other documents (including partially completed application forms).

(3) Regulations under subsection (1) may confer functions on the Electoral Commission (for example, the Commission may be required to design an invitation).

(4) Regulations under subsection (1) may amend, repeal (or revoke) or modify any enactment.

(5) Before making regulations under subsection (1), the Welsh Ministers must consult such persons as they consider appropriate.

16 Applications for registration

(1) The 2001 Regulations are amended as follows.

(2) In regulation 24 (evidence as to age and nationality), after "Union" insert "or (for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen".

(3) In regulation 26 (applications for registration)—

(a) after paragraph (1) insert—

"(1A) In relation to the registration of local government electors in Wales, where the applicant is not able to provide the applicant's date of birth,

the statement referred to in paragraph (1)(e) must indicate whether the applicant is—

(a) under the age of 16,

(b) aged 16 or 17, or

(c) aged 18 or over.";

(b) in paragraph (3), after "(1)" insert ", (1A)";

(c) in paragraph (3)(ba), after "Union" insert "or (for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen";

(d) after paragraph (3) insert—

"(3A) In relation to the registration of local government electors in Wales, the paper application form under paragraph (3) must also include an explanation of how information about applicants under the age of 16 will be held and used.";

(e) after paragraph (9) insert—

"(9A) In relation to the registration of local government electors in Wales, paragraphs (1)(f) and (8)(a) do not apply in the case where the applicant is under the age of 16."

(4) In regulation 26B (power to request additional evidence where certain information is unavailable or where the registration officer considers it necessary), after paragraph (6) insert—

"(6A) In relation to the registration of local government electors in Wales, paragraphs (2) to (6) do not apply in the case where the applicant is under the age of 16 if—

(a) there is information available to the registration officer from any educational record relating to the applicant, and

(b) that information is sufficient to satisfy the registration officer as to the applicant's identity and entitlement to be registered."

(5) In regulation 28 (inspection of applications and objections), after paragraph (2) insert—

"(3) In relation to the registration of local government electors in Wales, this regulation does not apply to an application made by a person under the age of 16."

(6) In regulation 29ZA (verification of information provided in an application), after paragraph (6) insert—

"(6A) In relation to the registration of local government electors in Wales, this regulation does not apply to an application made by a person under the age of 16."

17 Review of entitlement to registration

(1) The 2001 Regulations are amended as follows.

(2) In regulation 31D (procedure for reviewing entitlement to registration), after paragraph (3) insert—

"(3A) In relation to the registration of local government electors in Wales, paragraph (2)(b) does not apply where the subject of the review is under the age of 16."

(3) In regulation 31E (list of reviews), after paragraph (4) insert—

"(5) In relation to the registration of local government electors in Wales, this regulation does not apply to any review where the subject of the review is under the age of 16."

18 Anonymous registration

In regulation 31J of the 2001 Regulations (anonymous registration: evidence by attestation), after paragraph (5) insert—

"(6) In relation to the registration of local government electors in Wales, where the applicant is under the age of 16 on the date on which the application is made—

(a) "qualifying officer" also includes a person authorised in writing for the purposes of this regulation by an officer referred to in paragraph (4)(h), and

(b) where the attestation is signed by a person so authorised, the attestation must be accompanied by a copy of the person's authorisation."

19 Declarations of local connection

(1) Section 7B of the 1983 Act (notional residence: declarations of local connection) is amended as follows.

(2) After subsection (2) insert—

"(2A) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1)—

(a) is under 18 years of age,

(b) does not fall within any of the paragraphs (a) to (c) of subsection (2), and

(c) meets any of the requirements specified in subsection (2B).

(2B) The requirements are that—

(a) the person is, or has been, a child who is looked after by a local authority, or

(b) the person is being kept in any secure accommodation specified in regulations made by the Welsh Ministers in circumstances specified in the regulations.

(2C) The power to make regulations under subsection (2B)(b) is exercisable by statutory instrument and is subject to annulment in pursuance of a resolution of the Senedd.

(2D) In subsection (2B)—

(a) the reference to a child who is looked after by a local authority has the same meaning as in the Social Services and Well-being (Wales) Act 2014 (anaw 1) (see section 74);

(b) "secure accommodation" means accommodation for the purpose of restricting the liberty of persons under the age of 18."

(3) In subsection (3)(e), after "Union" insert "or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen".

(4) In subsection (4), after paragraph (b) insert—

"(c) in the case of a person falling within subsection (2A), any of the following—

(i) an address in Wales at which the person has previously been resident, or

(ii) an address used by a council of a county or county borough in Wales in which the person has previously been resident."

(5) After subsection (7) insert—

"(7A) Despite anything in subsection (7), in relation to Wales, a relevant declaration made by a person has effect only for the person's registration as a local government elector.

(7B) In subsection (7A) a "relevant declaration" means—

(a) a declaration of local connection made by virtue of subsection (2A);

(b) a declaration of local connection made by a qualifying foreign citizen;

(c) any other declaration of local connection made by a person who, on the date on which the declaration is made, is—

(i) under the age of 17, and

(ii) not entitled to be registered in the register of parliamentary electors.

(7C) A relevant declaration referred to in subsection (7A) must be marked to show that it is available only for the purposes of registration as a local government elector, but otherwise is to be the same as other declarations of local connection."

20 Service declarations

(1) The 1983 Act is amended as follows.

(2) In section 14 (service qualification), after subsection (1) insert—

"(1A) In relation to the registration of local government electors in Wales, a person also has a service qualification for the purposes of this Act if—

(a) the person is under the age of 18,

(b) a parent or guardian of the person has a service qualification under any of paragraphs (a) to (e) of subsection (1), and

(c) the person is residing at a particular place in order to be with that parent or guardian."

(3) In section 15 (service declaration)—

(a) after subsection (3) insert—

"(3A) In relation to the registration of local government electors in Wales, a service declaration made by a person by virtue of a service

qualification under section 14(1A) ceases to have effect when the person attains the age of 18.

(3B) Without prejudice to subsection (2), a person registered in a register of local government electors in Wales in pursuance of a service declaration referred to in subsection (3A) ceases to be entitled to remain so registered when the person attains the age of 18.

(3C) Where a person's entitlement to remain registered ceases under subsection (3B), the registration officer must remove the person's entry from the register.";

(b) after subsection (5) insert—

"(5A) Despite anything in subsection (5), in relation to Wales, a relevant service declaration made by a person has effect only for the purposes of the person's registration as a local government elector.

(5B) In subsection (5A), "relevant service declaration" means—

(a) a service declaration made by virtue of a service qualification under section 14(1A);

(b) a service declaration made by a qualifying foreign citizen;

(c) any other service declaration made by a person who, on the date on which the declaration is made, is—

(i) under the age of 17, and

(ii) not entitled to be registered in the register of parliamentary electors.

(5C) A relevant service declaration referred to in subsection (5A) must be marked to show that it is available only for the purposes of registration as a local government elector, but otherwise is to be the same as other service declarations."

(4) In section 16 (contents of service declaration)—

(a) the existing text becomes subsection (1);

(b) in that subsection, in paragraph (e), after "Union" insert "or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen";

(c) after that subsection insert—

"(2) In relation to the registration of local government electors in Wales, a service declaration made by a person claiming to have a service qualification under section 14(1A) does not require to be attested."

(5) In section 17 (effect of service declaration)—

(a) in subsection (1)(c), after "Union" insert "or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen";

(b) after subsection (2) insert—

"(3) In relation to the registration of local government electors in Wales, subsection (2) is subject to section 15(3A)."

21 Contents of service declarations

(1) The 2001 Regulations are amended as follows.

(2) In regulation 15 (contents of service declaration)—

(a) after paragraph (1) insert—

"(1A) In relation to the registration of local government electors in Wales, paragraph (1)(c) does not apply in a case where the declarant claims a service qualification under section 14(1A) of the 1983 Act (see instead regulation 15A).";

(b) after paragraph (3) insert—

"(3A) In relation to the registration of local government electors in Wales, the reference to "Government department" in paragraph (3) includes any organisation in which a Crown servant works."

(3) After regulation 15 insert—

"15A **Contents of service declaration: declarant with a service qualification under section 14(1A) of the 1983 Act**

(1) In relation to the registration of local government electors in Wales, a service declaration by a person claiming a service qualification under section 14(1A) of the 1983 Act must include, in addition to the matters specified in regulation 15(1)(a) and (b), such of the particulars specified in paragraph (2), (3) or (4) as are relevant to the declarant.

(2) Where the declarant claims a service qualification on the grounds that a parent or guardian of the declarant is a member of the forces (within the meaning of section 59(1) of the 1983 Act) or the spouse or civil partner of such a member, the declaration must state—

(a) the service (whether naval, military or air forces) in which the member serves,

(b) the rank or rating of the member,

(c) the service number of the member, and

(d) where the member serves in the military forces, the regiment or corps in which the member serves.

(3) Where the declarant claims a service qualification on the grounds that a parent or guardian of the declarant is a Crown servant to whom regulation 14 applies or the spouse or civil partner of such a servant, the declaration must state—

(a) the name of the organisation in which the servant works,

(b) a description of the post of the servant, and

(c) any staff number, payroll number or other similar identifying number of the servant.

(4) Where the declarant claims a service qualification on the grounds that a parent or guardian of the declarant is a British Council employee or the spouse or civil partner of such an employee, the declaration must state—

(a) a description of the post of the employee, and

(b) any staff number, payroll number or other similar identifying number of the employee."

22 Service declarations: further provision

(1) The 2001 Regulations are amended as follows.

(2) In regulation 25 (reminders to electors registered pursuant to a declaration), after paragraph (4) insert—

"(5) In relation to the registration of local government electors in Wales, paragraphs (6) and (7) apply in the case of a person registered in pursuance of a service declaration made by virtue of a service qualification under section 14(1A) of the 1983 Act.

(6) The registration officer must send to the person a reminder that the person's declaration will cease to have effect, and that the person's entitlement to remain registered will cease, when the person attains the age of 18.

(7) The reminder must be sent as soon as practicable within the period of 3 months ending on the day on which the person attains the age of 18."

(3) In regulation 26B (power to request additional evidence where certain information is unavailable or where the registration officer considers it necessary)—

(a) in paragraph (7)—

(i) for "(6)" substitute "(6A)";

(ii) after sub-paragraph (c) insert—

"(ca) in relation to the registration of local government electors in Wales, a service declaration on the grounds that the applicant has a service qualification under section 14(1A) of the 1983 Act;";

(b) after paragraph (9) insert—

"(9A) In the case of an application in pursuance of a service declaration within paragraph (7)(ca), the registration officer may require that the applicant give the officer one of the following documents or a copy of one of them certified by a relevant official—

(a) the applicant's passport, or

(b) the applicant's identity card issued in the European Economic Area.

(9B) In paragraph (9A), "relevant official" means—

(a) a Crown Servant (within the meaning of regulation 14),

(b) a British Council employee, or

(c) an officer of the forces (within the meaning of section 59(1) of the 1983 Act),

who is not the applicant's parent, guardian, spouse or civil partner."

23 Register of electors

In section 9 of the 1983 Act (registers of electors), after subsection (5) insert—

"(5A) In relation to the registration of local government electors in Wales—

(a) the entry in the combined registers of any person aged 16 or 17 who is registered only as a local government elector must give the date on which the person will attain the age of 18;

(b) the entry in the combined registers of any person who is registered only as a local government elector by virtue of section 4(3A) of this Act must give an indication of that fact."

24 Protection of information about persons aged under 16

(1) A registration officer must not publish, supply or otherwise disclose a young person's information, except in accordance with—

(a) section 25, or

(b) regulations under section 26.

(2) In this section and sections 25 and 26—

"a young person's information" ("*gwybodaeth person ifanc*") means any entry in—

(a) the register of local government electors, or

(b) an absent voters record or list,

relating to a person who, at the time of the publication, supply or other disclosure, is under the age of 16, and "young person" is to be interpreted accordingly;

"absent voters record or list" ("*cofnod neu restr o bleidleiswyr absennol*") means any of the following—

(a) a record kept under article 8(3), 9(6) or 12(6) of the 2007 Order;

(b) a list kept under article 10 or 12(8) of the 2007 Order;

"register of local government electors" ("*cofrestr o etholwyr llywodraeth leol*") includes any notice of an alteration in the register under section 13A(2), 13AB(2) or 13B(3), (3B) or (3D) of the 1983 Act;

"registration officer" ("*swyddog cofrestru*") includes—

(a) a deputy of a registration officer;

(b) a person appointed to assist a registration officer in the carrying out of the registration officer's functions;

(c) a person, in the course of the person's employment, assisting a registration officer in the carrying out of those functions.

25 Exceptions from prohibition on disclosure

(1) This section applies for the purpose of section 24(1).

(2) A young person's information may be disclosed to any person so far as necessary for the purpose of the carrying out by that person of functions in connection with—

(a) the registration of electors, or

(b) the conduct of an election.

(3) A young person's information may be disclosed in accordance with regulation 32ZA(5) and (5A) of the 2001 Regulations (pre-population of the canvass form).

(4) A young person's information (other than any information by which the person's date of birth may be ascertained) may be disclosed in a version or copy of the register of local government electors or an absent voters record or list supplied in accordance with a relevant supply enactment, but only so far as it is necessary to do so for the purposes of or in connection with an election at which the young person will be entitled to vote.

(5) In subsection (4), "relevant supply enactment" means—

(a) regulation 100 of the 2001 Regulations (supply to the Electoral Commission);

(b) regulation 104 of the 2001 Regulations (supply to holders of relevant elective offices and candidates), so far as applying to a Member of the Senedd;

(c) regulation 108 of the 2001 Regulations (supply to candidates), so far as applying to candidates at Senedd elections;

(d) regulation 102 of the 2001 Regulations (general provision), so far as relating to regulations 104 and 108;

(e) any enactment making provision equivalent to that in regulation 61 of the 2001 Regulations (absent voters records and lists) in relation to Senedd elections;

(f) any enactment making provision equivalent to that in regulation 98(4) of the 2001 Regulations in relation to Senedd elections.

(6) A young person's information may be disclosed to any person so far as necessary for the purposes of a criminal investigation or criminal proceedings relating to an offence (or alleged offence) under any enactment relating to—

(a) the registration of electors, or

(b) the conduct of elections.

(7) A young person's information may be disclosed to the young person to whom it relates.

(8) A registration officer must supply a young person's information to the young person to whom it relates if the young person requests the information for the purpose of verifying that the young person is a permissible donor within the meaning of section 54(2)(a) of the Political Parties, Elections and Referendums Act 2000 (c. 41).

(9) A young person's information may be disclosed to a person appointed as proxy to vote for the young person to whom the information relates.

(10) A person to whom a young person's information is disclosed under subsection (2) or (6) must not disclose the information to another person, except as mentioned in that subsection.

(11) A person who contravenes subsection (10) commits an offence and is liable on summary conviction to a fine.

26 Further provision for exceptions

(1) The Welsh Ministers may by regulations make provision for or about the disclosure of a young person's information in connection with elections to the Senedd.

(2) Regulations under subsection (1) may (among other things) include provision—

(a) authorising or requiring registration officers to supply or otherwise disclose any young person's information to persons specified in the regulations;

(b) specifying, in relation to any description of persons specified in the regulations in pursuance of paragraph (a), the purposes for which any young person's information supplied or otherwise disclosed may be used;

(c) imposing prohibitions or restrictions relating to the extent (if any) to which persons to whom any young person's information is supplied or otherwise disclosed (whether in accordance with the regulations or otherwise) may—

(i) supply or otherwise disclose the information to other persons;

(ii) make use of the information otherwise than for any purposes specified in the regulations or for which the information has been supplied or otherwise disclosed in accordance with the regulations;

(d) imposing prohibitions or restrictions corresponding to those which may be imposed by virtue of paragraph (c) in relation to—

(i) persons to whom any young person's information has been supplied or otherwise disclosed in accordance with regulations made in pursuance of paragraph (c) or this paragraph, or

(ii) persons who otherwise have access to any young person's information;

(e) imposing, in relation to persons involved in the preparation of the full register of local government electors, prohibitions with respect to supplying copies of the full register and disclosing any young person's information contained in it.

(3) Regulations under subsection (1) may—

(a) amend, repeal or modify provision in section 25;

(b) make provision by reference to other enactments relating to the supply or disclosure of the register of local government electors, or copies of it or entries in it;

(c) provide for the creation of criminal offences punishable on summary conviction by a fine.

(4) Before making regulations under subsection (1), the Welsh Ministers must consult such persons as the Welsh Ministers consider appropriate.

27 Amendments to the National Assembly for Wales (Representation of the People) Order 2007

(1) The 2007 Order is amended as follows.

(2) In article 2(1)—

(a) after the definition of "qualifying Commonwealth citizen" insert—

""qualifying foreign citizen" means a person who—

(a) is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union, and

(b) either—

(i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or

(ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave;";

(b) in the definition of "qualifying Commonwealth citizen" for "indefinite leave to remain within the meaning of that Act" to the end substitute "any description of such leave";

(c) at the end of the definition of "valid postal voting statement", omit "and";

(d) after the definition of "voter", insert—

""voting age" means 16 years of age or over."

(3) In article 11 (proxies at Assembly elections)—

(a) in paragraph (3)(b), after "Union" insert "nor a qualifying foreign citizen";

(b) in paragraph (4), for "eighteen" substitute "16".

(4) In article 26(3)(b) (effect of registers), after sub-paragraph (i) insert—

"(ia) a qualifying foreign citizen;".

(5) The following amendments have effect for the purposes of an election for membership of the Senedd at which the poll is held on or after 5 April 2021—

(a) the amendment made by subsection (2)(d) so far as it defines "voting age" in article 26(3)(a) of the 2007 Order;

(b) the amendments made by subsections (3) and (4).