



# Senedd and Elections (Wales) Act 2020

2020 anaw 1

## PART 4

### DISQUALIFICATION

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

(1) Section 16 of the 2006 Act (disqualification from being Assembly member) is amended as follows.

(2) Before subsection (1) insert—

“(A1) A person is disqualified from being a Member of the Senedd, and from being a candidate to be a Member of the Senedd, if that person—

- (a) falls within any of the categories of person specified in Part 1 of Schedule 1A, or
- (b) holds any of the offices specified in the Table in Part 2 of Schedule 1A.”

(3) In subsection (1)—

(a) for the words before paragraph (za) substitute—

“(1) A person is disqualified from being a Member of the Senedd (but not from being a candidate to be a Member of the Senedd) if that person—”;

(b) after paragraph (za), insert—

- “(zb) is a member of the House of Lords (but see section 17C),
- (zc) is a member of the council of a county or county borough in Wales (but see sections 17D, 17E and 17F),
- (zd) is a member of the Scottish Parliament,
- (ze) is a member of the Northern Ireland Assembly,
- (zf) is a member of the European Parliament, or”;

(c) omit paragraph (a);

(d) omit paragraphs (c) to (e).

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(4) After subsection (1) insert—

“(1A) A person returned at an election as a Member of the Senedd is not disqualified under subsection (1)(zd), (ze), (zf) or (b) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).”

(5) Omit subsections (2) to (4).

(6) In subsection (5), for “in that paragraph and this subsection” substitute “ for the purposes of this section ”.

(7) Before Schedule 2 to the 2006 Act, insert the Schedule 1A set out in Schedule 3 to this Act.

### **30 Exceptions and relief from disqualification**

(1) Section 17 of the 2006 Act (exceptions and relief from disqualification) is amended as follows.

(2) Omit subsections (1) and (2).

(3) In subsection (3), omit “or (4)”.

(4) In the section heading, for “Exceptions and relief” substitute “ Relief”.

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

(1) Section 17B of the 2006 Act (exception from disqualification by virtue of being a Member of Parliament: general election of Assembly members within 372 days) is amended as follows.

(2) After subsection (3) insert—

“(3A) Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general election being held on the day specified in section 3(1)—

(a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);

(b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.

(3B) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—

(a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;

(b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).”

(3) In subsection (4)—

(a) in paragraph (a)—

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- (i) for “an Order in Council under section 5(4) has been made” substitute “ a proclamation under section 5(4) has been issued ”;
  - (ii) for “Order”, in the second place where it appears, substitute “ proclamation ”;
  - (b) in paragraph (b), for “Order in Council under section 5(4) has been made” substitute “ proclamation under section 5(4) has been issued ”.
- (4) In subsection (5)(a), for “an order under section 4 (power to vary date of ordinary general election) being made” substitute “ a day being proposed under section 4(1) (power to vary date of ordinary general election) ”.

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

After section 17B of the 2006 Act insert—

#### **“17C Exception from disqualification by virtue of being a member of the House of Lords**

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zb) (disqualification by virtue of being a member of the House of Lords) at any time in the period of eight days beginning with the day the person is so returned.
- (2) A Member of the Senedd who becomes a member of the House of Lords is not disqualified under section 16(1)(zb) at any time before the end of the period of eight days beginning with the day the person makes and subscribes the oath required by the Parliamentary Oaths Act 1866 (c. 19) (or the corresponding affirmation).
- (3) A person is not disqualified from being a Member of the Senedd under section 16(1)(zb) at any time when the person—
  - (a) has leave of absence from the House of Lords, or
  - (b) has made an application for leave of absence which has not been withdrawn or refused.
- (4) A person who is on leave of absence from the House of Lords immediately before Parliament is dissolved is not disqualified from being a Member of the Senedd under section 16(1)(zb) at any time in the period—
  - (a) beginning with the dissolution of the old Parliament, and
  - (b) ending at the end of the period of eight days beginning with the day of the first meeting of the new Parliament.”

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

After section 17C of the 2006 Act (as inserted by section 32) insert—

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**“17D Exception from disqualification by virtue of being a councillor:  
 recently elected members**

- (1) A person returned at an election as a Member of the Senedd is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time before the person purports to take the oath of allegiance (or make the corresponding affirmation) in compliance with section 23(1) or 55(2).
- (2) A Member of the Senedd who is returned at an election as a member of the council of a county or county borough in Wales is not disqualified under section 16(1)(zc) at any time before the person makes a declaration of acceptance of office under section 83 of the Local Government Act 1972 (c. 70).

**17E Exception from disqualification by virtue of being a councillor:  
 ordinary election of councillors within 372 days**

- (1) This section applies if—
  - (a) a member of the council of a county or county borough in Wales is returned as a Member of the Senedd, and
  - (b) the expected day of the next ordinary election of members of the council is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
  - (a) beginning with the return day, and
  - (b) ending with the fourth day after the day of the next ordinary election of members of the council.
- (3) For the purposes of subsection (1)(b) the expected day of the next ordinary election of members of the council is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) For the purpose of determining the expected day, no account is to be taken of the possibility of—
  - (a) an order under section 37ZA(1) of the Representation of the People Act 1983 (c. 2) (power to vary ordinary day of local elections), or
  - (b) an order under section 87 of the Local Government Act 2000 (c. 22) (power to change year in which local election is held),
 being made after the relevant time.
- (5) References in this section and section 17F to the “day” of an election are to the day on which the poll at the election is held.

**17F Exception from disqualification by virtue of being a councillor:  
 general election of Members of the Senedd within 372 days**

- (1) This section applies if—
  - (a) a Member of the Senedd is returned as a member of the council of a county or county borough in Wales, and

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- (b) the expected day of the next general election of Members of the Senedd is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(zc) (disqualification by virtue of being a member of the council of a county or county borough in Wales) at any time in the period—
  - (a) beginning with the return day, and
  - (b) ending immediately before the day of the next general election of Members of the Senedd.
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of Members of the Senedd is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) Where, at the relevant time, section 3(1A) prevents the poll at the next ordinary general election being held on the day specified in section 3(1)—
  - (a) if an order under section 3(1B) has been made, the expected day is the day on which the poll is required to be held in accordance with section 3(1B);
  - (b) if no order under section 3(1B) has been made, the expected day is the day on which the poll would be held in accordance with section 3(1) if section 3(1A) were disregarded.
- (5) Where, at the relevant time, the Presiding Officer has proposed a day for the holding of the poll at the next ordinary general election under section 4(1)—
  - (a) if a proclamation under section 4(2) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 4(2) has been issued, the expected day is the day proposed under section 4(1).
- (6) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—
  - (a) if a proclamation under section 5(4) has been issued, the expected day is the day on which the poll is required to be held in accordance with that proclamation;
  - (b) if no proclamation under section 5(4) has been issued but a day has been proposed under section 5(1), that is the expected day;
  - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).
- (7) For the purpose of determining the expected day, no account is to be taken of the possibility of—
  - (a) a day being proposed under section 4(1) (power to vary date of ordinary general election) after the relevant time, or
  - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.”

## **34 Effect of disqualification**

- (1) Section 18 of the 2006 Act (effect of disqualification) is amended as follows.

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(2) At the beginning, insert—

“(A1) If a person who is disqualified from being a candidate to be a Member of the Senedd (see section 16(A1)) is nominated as a candidate at a general election of Members of the Senedd or an election to fill a vacancy under section 10, the person's nomination is void.”

(3) Omit subsection (2).

(4) In subsection (3), omit “or” and paragraph (b).

(5) In subsection (8), omit “or” and paragraph (b).

(6) In section 19(1) of the 2006 Act (judicial proceedings as to disqualification), omit paragraph (b) and the “or” before it.

### **35 Consequential amendments**

(1) In section 427(6B) of the Insolvency Act 1986, for “section 16(2) of the Government of Wales Act 2006 by virtue of this section” substitute “ section 16(A1)(a) of the Government of Wales Act 2006 and paragraph 4 of Schedule 1A to that Act ”.

(2) In Schedule 10 to the 2006 Act, omit paragraph 18 and the italic heading before it.

(3) In section 1(8) of the National Assembly for Wales Commissioner for Standards Measure 2009 (nawm 4), omit paragraph (a).

(4) In Schedule 1 to the Public Services Ombudsman (Wales) Act 2019 (anaw 3)—

(a) in paragraph 6(1)(d), for “paragraph 7 of this Schedule or section 16(1)(d) of the Government of Wales Act 2006 (c. 32)” substitute “ holding office as the Ombudsman or an acting Ombudsman ”;

(b) in paragraph 7, omit sub-paragraph (2).

**Changes to legislation:**

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