

# **Senedd and Elections (Wales) Bill**

## **Explanatory Memorandum: Incorporating the Regulatory Impact Assessment and Explanatory Notes**

February 2019 (Part 5 inserted in November 2019 and updated in February 2020)



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*The Senedd and Elections (Wales) Bill was amended during Stages 2 and 3 of the Assembly's legislative scrutiny of the Bill. Part 5 of this Explanatory Memorandum provides information on those amendments and their effects, in accordance with Standing Order 26.27. Parts 1 to 4 of this Explanatory Memorandum have not been revised and reflect the Bill's content on introduction.*

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# Senedd and Elections (Wales) Bill

This Explanatory Memorandum has been prepared by Elin Jones AM and is laid before the National Assembly for Wales.

## Member's Declaration

In my view, the provisions of the Senedd and Elections (Wales) Bill, introduced by me on 12 February 2019, would be within the legislative competence of the National Assembly for Wales.

Elin Jones AM  
Llywydd and Chair of the Assembly Commission  
Assembly Member in charge of the Bill

12 February 2019

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## List of abbreviations in this document

| Term   | Abbreviation        |
|--|---------------------|
| Commission on the Powers and Electoral Arrangements of the National Assembly for Wales | Richard Commission  |
| Electoral Administration Act 2006  | EAA 2006            |
| Electoral Commission   | EC                  |
| Electoral Managements Systems (IT software)  | EMS                 |
| Electoral Registration Officer   | ERO                 |
| Expert Panel on Assembly Electoral Reform  | Expert Panel        |
| Government of Wales Act 1998   | GOWA 1998           |
| Government of Wales Act 2006   | GOWA 2006           |
| National Assembly for Wales  | Assembly            |
| National Assembly for Wales Commission   | Assembly Commission |
| National Assembly for Wales (Representation of the People) Order 2007                  | 2007 Order          |
| Political Parties, Elections and Referendums Act 2000                                  | PPERA 2000          |
| Representation of the People Act 1983  | RPA 1983            |
| Wales Act 2014   | WA 2014             |
| Wales Act 2017   | WA 2017             |
| Welsh Consolidated Fund  | WCF                 |

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# Part 1: Background and purpose of the Bill

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# 1. Introduction

- 1.** The National Assembly for Wales (the Assembly) is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.
- 2.** The Assembly has undergone significant changes to its structure and functions since its original establishment under the *Government of Wales Act 1998 (GOWA 1998)*.<sup>1</sup>
- 3.** Then, it had no primary law-making powers and was not formally separated from the Welsh Government. Now, it has responsibility for making laws and holding the Welsh Government to account in some of the areas which have the greatest impact on people's lives.
- 4.** The Assembly now operates on the basis of a new reserved powers model under the *Wales Act 2017 (WA 2017)*.<sup>2</sup> It also has responsibility for the first Welsh taxes in 800 years, including income tax-varying powers. The *WA 2017* also gives the Assembly the power to make decisions in relation to the institution's size, name and how Members are elected as well as its internal arrangements.
- 5.** On behalf of the Assembly, the Assembly Commission is leading a reform programme to make sure the Assembly is an accessible, forward-looking institution which serves the people of Wales effectively by:
  - changing the name of the institution before the end of the Assembly term in 2021 to reflect its constitutional position as the primary democratic institution in Wales.
  - ensuring that the Assembly has the appropriate number of Members it needs to carry out its work, and that robust and principled arrangements are in place for their election.
  - reinvigorating the democratic process by lowering the minimum voting age for Assembly elections to 16, to enthuse and engage young people.
  - ensuring that the legislative provisions underpinning the Assembly's internal, organisational and procedural arrangements strike the right

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<sup>1</sup> Government of Wales Act 1998, accessible at [www.legislation.gov.uk/ukpga/1998/38/contents](http://www.legislation.gov.uk/ukpga/1998/38/contents)

<sup>2</sup> Wales Act 2017, accessible at [www.legislation.gov.uk/ukpga/2017/4/contents/enacted](http://www.legislation.gov.uk/ukpga/2017/4/contents/enacted)

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balance between robustness and the flexibility appropriate for a national legislature; and

- encouraging greater engagement between the Assembly and the public it serves, and achieving a better understanding among the public of the work of the Assembly and the Assembly Commission.

**6.** The *Senedd and Elections (Wales) Bill* is the first part of a two-phase legislative strategy to progress these reforms.

**7.** It is anticipated that the second phase of the legislative strategy will incorporate the electoral system and size of the Assembly, if cross-party consensus emerges on those matters.

**8.** Consequently, the *Senedd and Elections (Wales) Bill*:

- changes the name of the institution from the National Assembly for Wales (Cynulliad Cenedlaethol Cymru) to the “Senedd”, and makes consequential changes to relevant names, titles and descriptors.
- reduces the minimum voting age in Assembly elections to 16, and implements reform of associated electoral registration arrangements;
- makes changes to the law on disqualification from being an Assembly Member;
- places a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums;
- introduces a regulation-making power to implement Law Commission recommendations;
- extends the deadline for the first meeting of the Assembly after an election; and
- clarifies Assembly Commission powers to charge for goods and services.

**9.** This Explanatory Memorandum has been prepared and laid in accordance with Standing Order 26.6.<sup>3</sup> It sets out the background to the provisions and scope of the Bill, and includes an assessment of the Bill’s financial implications, and a range of impact assessments (including an equalities and human rights impact

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<sup>3</sup> Annex 8: Index of Standing Order 26.6 requirements sets out where in this Explanatory Memorandum each of the requirements of Standing Order 26.6 are met.

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assessment, children's rights impact assessment and official languages impact assessment).

**10.** Standing Order 26.84 allows the Commission to introduce a Bill relating to the Commission's functions. The Commission's functions are not clearly defined in legislation. It is therefore open to the Assembly to determine the Commission's functions. The only limitation is that the functions must be lawful. To determine the Assembly's view and to ensure that the Commission had a firm procedural basis to introduce legislation, the Assembly's approval for the introduction of a Bill was sought. A plenary motion to allow the Commission to introduce legislation on the issues included in the *Senedd and Elections Bill (Wales)* was tabled for debate on 10 October 2018 and agreed by the Assembly.

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## 2. Legislative competence

**11.** The *WA 2017* introduced a reserved powers model of legislative competence for Wales, and amended the *Government of Wales Act 2006 (GOWA 2006)* to substitute a new section 108A (legislative competence) for the former section 108 and new Schedules 7A (reserved matters) and 7B (general restrictions) for the former Schedule 7. Under this reserved powers model the Assembly will have competence to legislate unless a provision:

- extends otherwise than in relation to England and Wales;
- applies (etc.<sup>4</sup>) otherwise than in relation to Wales;
- unless ancillary to a provision within competence; and
- has no greater effect otherwise than in relation to Wales than is necessary;
- relates to reserved matters (provision set out in Schedule 7A to the *GOWA 2006*);
- breaches any restrictions in Schedule 7B;
- is incompatible with Convention rights or EU law.

**12.** Part 1 of Schedule 7A lists the general reservations from competence, Part 2 the specific reservations from competence, which like those listed in Part 1 of Schedule 7A, are reserved matters.

**13.** Under section 108A(6) of the *GOWA 2006*, the question whether a provision of a Bill “relates” to a reserved matter is to be determined “by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances”. Case-law<sup>5</sup> has established that a Bill will “relate to” a reserved matter if it has more than a “loose and consequential connection” with it.

**14.** It is not considered that any provision made by the Bill falls within any of the reservations contained in Schedule 7A. The overall purpose of the Bill is to improve

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<sup>4</sup> Section 108A (2) (b) of the *GOWA 2006* provides that a provision will be outside competence if it applies otherwise than in relation to Wales or confers, imposes, modifies or removes (or gives power to confer, impose, modify or remove) functions exercisable otherwise than in relation to Wales.

<sup>5</sup> *Martin v Most* [2010] UKSC 10; 2010 SC (UKSC) 40, para 49 and *Agricultural Sector (Wales) Bill* judgment [2014] UKSC 43, para. 50.

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the accessibility of the National Assembly for Wales and its operational arrangements in order to make it a more effective legislature for the people of Wales. The Bill will:

- rename the Assembly to “Senedd” to better reflect the evolution of its constitutional status, to the national parliament that it is today;
- lower the minimum voting age at Assembly elections to 16; and
- deliver other reforms to the Assembly’s electoral and operational arrangements to make it a more accessible and effective legislature.

**15.** Schedule 7B to the *GOWA 2006* contains the general restrictions on the Assembly’s competence.

**16.** Paragraphs 8(1)(a) and 8(1)(c) of Schedule 7B to the *GOWA 2006* provide that unless the appropriate Minister<sup>6</sup> consents, a provision will be outside legislative competence if, respectively, it confers or imposes (or by subordinate legislation confers or imposes), any function on a reserved authority, or the provision confers, imposes, modifies or removes (or by subordinate legislation confers, imposes, modifies or removes), functions specifically exercisable in relation to a reserved authority.

**17.** Paragraph 9 of Schedule 7B to the *GOWA 2006* contains exceptions to paragraph 8 of Schedule 7B to the *GOWA 2006* by excepting certain bodies.

**18.** Paragraph 10 of Schedule 7B to the *GOWA 2006* restricts provisions that remove or modify (or confers power by subordinate legislation to remove or modify), any function of a public authority other than a devolved Welsh authority unless the appropriate Minister consents to the provision.

**19.** A “reserved authority” is a Minister of the Crown or government department and any other public authority that is not a devolved Welsh authority<sup>7</sup> and a “public authority” is a body, office or holder of an office that has functions of a public nature.<sup>8</sup>

**20.** Sections 12 to 25 of the Bill confer and/or modify various functions of Electoral Registration Officers (EROs). The office of ERO is created by section 8(2A) of the *Representation of the People Act 1983 (RPA 1983)*. While the person who holds

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<sup>6</sup> An “appropriate Minister” is the Secretary of State except where the reserved authority is HMRC, in which case it is the Treasury.

<sup>7</sup> As defined in Section 157A of, and listed in Schedule 9A to, the *GOWA 2006*.

<sup>8</sup> The *GOWA 2006*, Schedule 7B, Paragraph 8(4).

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the office must be an officer of the local authority, functions are conferred upon and are exercisable by the ERO in their own right. The office of ERO is “a reserved authority” and consent of the Secretary of State was required in order for these provisions to be within the Assembly’s competence. Consent was received for these provisions in February 2019.

**21.** Section 27 of the Bill confers a function on the Electoral Commission. The Assembly is not required to seek consent of the Secretary of State for the provision by virtue of paragraph 9 (2) of Schedule 7B to the *GOWA 2006*.

**22.** All of the Bill’s provisions are compatible with the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights). Further consideration is given to this in paragraphs 853–872.

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## 3. Context and need for the Bill

### 3.1. Devolution in Wales

**23.** The Bill changes the name of the Assembly to better reflect the evolution of its constitutional status, to the national parliament that it is today. Since 1999, devolution in Wales has undergone significant changes, as has the Assembly itself.

**24.** The *GOWA 1998* established the National Assembly for Wales as a single corporate body – with the government and legislature operating as one.<sup>9</sup> The first elections were held on 6 May 1999. The powers of the Assembly were broadly equivalent to those previously held by the Secretary of State for Wales. This stood in contrast to the primary law-making powers held by the Scottish Parliament from its establishment in 1999.

**25.** The *GOWA 2006* came into force following the 2007 Assembly election, giving effect to the recommendation of the Richard Commission that the executive and legislature should be legally separated. The *GOWA 2006* clarified the roles of each institution. The Welsh Assembly Government<sup>10</sup> became responsible for making and implementing decisions, policy and subordinate legislation, and the Assembly became responsible for holding the Government to account, making laws on an incremental basis,<sup>11</sup> and representing the interests of the people of Wales.

**26.** Following the 3 March 2011 referendum, the Assembly gained law-making powers in all devolved areas (i.e. it would no longer make laws on an incremental basis).<sup>12</sup>

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<sup>9</sup> The Assembly resolved in 2002 to separate the roles of the executive and legislature within the framework of the *GOWA 1998*.

<sup>10</sup> As it was then known. The Welsh Assembly Government was subsequently renamed as the Welsh Government.

<sup>11</sup> The *GOWA 2006* gave the Assembly powers to make laws, known as Measures, in specified areas. Powers were gained gradually on an incremental basis through Legislative Competence Orders (LCOs) by approval of the UK Parliament, or by the conferral of framework powers via UK legislation.

<sup>12</sup> In February 2010 the Assembly passed a resolution to hold a referendum, which was subsequently triggered by the Secretary of State for Wales. The referendum was held on 3 March 2011, and resulted in a vote in favour of primary law-making powers for the Assembly. These powers came into effect following the 2011 Assembly election.

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**27.** Following the recommendations set out in the first report of the Silk Commission,<sup>13</sup> the *WA 2014* conferred tax and borrowing powers on the Welsh Government, giving it for the first time responsibility for raising a portion of its budget.<sup>14</sup>

**28.** The *WA 2014* also gave the Assembly powers to allow 16- and 17-year olds to vote in the income tax referendum (but no other elections).<sup>15</sup>

**29.** In 2014, the Silk Commission published its second report, the recommendation of which led to the *WA 2017*, which established a new constitutional framework for Wales.

**30.** The *WA 2017*:

- devolved further powers to the Welsh Government in areas such as transport and natural resources;
- changed the legislative competence of the Assembly from a “conferred” to a “reserved” powers model. Consequently, the Assembly is able, subject to restrictions and exceptions, to legislate on any matter that is not specifically “reserved” to the UK;
- removed the requirement for a referendum prior to the partial devolution of income tax; and
- devolved powers to the Assembly to legislate in relation to its own electoral, financial and operational arrangements, including its name.

**31.** It is in the context of these substantial changes that the Bill changes the name of the Assembly to better reflect the evolution of its constitutional status and its responsibilities as a national parliament that it is today.

**32.** Further information about the legislative context of the Bill is detailed in Annex 1 of this Explanatory Memorandum.

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<sup>13</sup> The [Commission on Devolution in Wales](#), known as the Silk Commission, was established by the UK Government in 2011, and published reports in 2012 and 2014.

<sup>14</sup> Business rates were devolved from April 2015, and stamp duty and landfill tax followed in 2018. The *WA 2014* also made provision for the devolution of income tax-varying powers (subject to a referendum), and for the development of new Welsh taxes (subject to UK Government agreement).

<sup>15</sup> The *WA 2014* also extended the Assembly term from four to five years, removed the restriction on standing as both a constituency and a regional candidate in an Assembly election; and prevented Members of Parliament from being Assembly Members (except under certain limited circumstances).

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## 3.2. Need for the Bill: awareness of the role and functions of the legislature

**33.** Changing the name of the Assembly presents a valuable opportunity to raise awareness of the role and functions of both the legislature and the government amongst the people of Wales, and to encourage engagement in the democratic process.

**34.** As illustrated by the previous section outlining the timeline of devolution in Wales, the powers of the National Assembly have grown incrementally since 1999. As the democratically elected body that represents the interests of Wales and its people, the National Assembly's role is now that of a parliament. It now works in much the same way as the UK Parliament in Westminster and other constitutional structures around the world, by making laws for Wales, agreeing Welsh taxes and holding the Welsh Government to account.

**35.** However, all these changes have created a blurred picture about where power and accountability in Wales now lies. In the course of its work over the last Assembly term, the Assembly Commission collected a range of information which suggests that there is confusion over the different roles of the Assembly, the Welsh Government, and the Parliament and Government in Westminster.

**36.** The available evidence indicates both that:

- the people of Wales do not currently fully grasp the role and the powers of the National Assembly for Wales; and
- the name of the National Assembly for Wales is considered to contribute to this uncertainty.

**37.** 69 per cent of those surveyed by Beaufort Research in 2013 knew less than “a fair amount” about the role of the National Assembly for Wales,<sup>16</sup> and an ICM poll commissioned by the BBC in 2014 showed that only 48 per cent of Welsh citizens knew the NHS was the responsibility of the Welsh Government.<sup>17</sup> Professor Roger Scully from Cardiff University's Wales Governance Centre commented on the figures that they:

“are not great in terms of public understanding of who is responsible for what. I think that it does show there is still a lot of confusion amongst

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<sup>16</sup> Beaufort Research, [Commission on Devolution in Wales: Public Opinion Survey – Non Fiscal Powers: Research findings Report](#), 13 August 2013

<sup>17</sup> BBC, [Fewer than half the population know who runs Welsh NHS, says poll](#), 9 June 2014

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people about exactly where the line for responsibility comes between London and Cardiff Bay in terms of governance.”

**38.** Similarly, in a public consultation carried out by the Assembly Commission from 8 December 2016 to 3 March 2017:

- around three fifths (59.7 per cent) of respondents disagreed with the statement that, “The role of the National Assembly for Wales is well understood”;
- the majority (80.1 per cent) of respondents agreed that “The name of an institution is important to explain what it does”; and
- over three fifths (60.9 per cent) of respondents agreed with the statement, “The National Assembly for Wales should change its name”.<sup>18</sup>

**39.** The consultation included an annotated set of draft Bill provisions to give effect to changing the name of the Assembly. Respondents to the consultation praised the simplicity of this draft, with one respondent stating that:

“I think the draft legislation is set out logically, clearly and in an accessible way. I would be happy with this piece of legislation to change the name.”<sup>19</sup>

**40.** Following this consultation, and the unanimous agreement of the Assembly,<sup>20</sup> the Assembly Commission announced in June 2017 that it wished to legislate to change the name of the institution to reflect the weight of responsibility held by the legislature and its Members and to provide a name for the institution which will be recognised and understood by those it serves.<sup>21</sup>

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<sup>18</sup> National Assembly for Wales Commission, [Changing the name of the National Assembly for Wales: Consultation results report](#), June 2017, p.2

<sup>19</sup> National Assembly for Wales Commission, [Changing the name of the National Assembly for Wales: Consultation results report](#), June 2017, p.8

<sup>20</sup> Members of the Assembly agreed unanimously, in a debate on [5 July 2016](#), that the National Assembly “should change its name to reflect its constitutional status as a national parliament”.

<sup>21</sup> National Assembly for Wales Commission, [Written statement: Assembly reform programme](#), 13 June 2017

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### 3.3. Need for the Bill: implementation of recommendations made by the Expert Panel on Assembly Electoral Reform

**41.** In January 2015, the Fourth Assembly Commission considered the capacity of the Assembly, and published a report which unanimously concluded that “with only 60 Members, the National Assembly is underpowered and overstretched”.<sup>22</sup>

**42.** The Fifth Assembly Commission, drawing on the work of its predecessors, announced in November 2016 that it intended to lead work to explore the use of the Assembly’s new powers in order to address the capacity of the Assembly. Acting on behalf of the Assembly Commission, on 1 February 2017 the Llywydd announced that the Assembly Commission had established an Expert Panel on Electoral Reform (Expert Panel) to provide politically impartial advice on the number of Members the Assembly needs, the most suitable electoral system, and the minimum voting age for Assembly elections.<sup>23</sup>

**43.** The Expert Panel’s work was led by its chair, Professor Laura McAllister CBE, Professor of Public Policy and the Governance of Wales at Cardiff University’s Wales Governance Centre. Other Expert Panel members were selected on the basis of their expertise in the fields of electoral systems, parliamentary work and capacity, the constitutional position of the Assembly, and wider issues of governance, including equalities, diversity and engagement.<sup>24</sup>

**44.** Following the Expert Panel’s report, in February 2018 the Assembly Commission launched a consultation seeking views on the Expert Panel’s recommendations, and on other reforms to the Assembly’s electoral and operational arrangements that could make it a more accessible and effective legislature.<sup>25</sup>

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<sup>22</sup> National Assembly for Wales Commission, [The future of the Assembly: ensuring its capacity to deliver for Wales](#), January 2015

<sup>23</sup> National Assembly for Wales Commission, [Written statement on the Expert Panel on Assembly Electoral Reform](#), 1 February 2017

<sup>24</sup> For more information about the Expert Panel on Assembly Electoral Reform, including its membership, full terms of reference, the evidence it considered and its report, see [www.assembly.wales/electoralreform](http://www.assembly.wales/electoralreform).

<sup>25</sup> As noted above, draft provisions to enable a change to the name of the Assembly were previously included in a separate consultation on changing the name of the Assembly. This approach reflected the recommendation of the Fourth Assembly’s Constitutional and Legislative Affairs Committee that “there should be a presumption in favour of publishing draft Bills”. It was not possible to include the text of draft provisions in the subsequent consultation seeking views on the Expert Panel’s recommendations, and on other reforms to the Assembly’s electoral and operational arrangements. The timescales involved in developing such provisions would have

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**45.** The following sub-sections consider:

- the need for particular policy objectives recommended by the Expert Panel that are given effect by the *Senedd and Elections (Wales) Bill*; and
- the need for other reforms to the Assembly's electoral and operational arrangements that could make it a more accessible and effective legislature, which are given effect by the *Senedd and Elections (Wales) Bill*.

### 3.3.1. The need for a reduction in the voting age to 16

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**46.** On the issue of the minimum voting age for Assembly elections, the Expert Panel concluded that extending the franchise to 16- and 17-year olds with effect from 2021 would be a powerful way to raise political awareness and participation among young people. The Expert Panel also considered that, if the Welsh Government proposed a reduction in the minimum voting age for local elections in Wales to 16, it would be anomalous and create additional administrative and political issues if the voting age for Assembly elections was not similarly lowered.<sup>26</sup>

**47.** In forming its conclusions, the Expert Panel took account of:

- international comparisons;<sup>27</sup>
- the age thresholds of other legal rights and responsibilities;<sup>28</sup>
- the potential impact of lowering the minimum voting age on political participation;<sup>29</sup>

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substantially delayed such consultation, and would have made it unfeasible for the required legislation to be in place for the 2021 Assembly election. Instead, the Commission worked closely with a range of stakeholders to develop this legislation and their views informed the preparation of the Bill's provisions. This included regular dialogue with political parties throughout the process of developing the Bill and seeking the views of external stakeholders especially those with expertise on electoral matters. In addition to this, individual Assembly Members and the public were kept informed of the Commission's policy decisions relating to the Bill via regular statements and public announcements.

<sup>26</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that works for Wales. Executive Summary*, paragraphs 9-10

<sup>27</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that works for Wales*, paragraphs 15.10-15.11.

<sup>28</sup> *Ibid.*, paragraphs 15.12-15.14

<sup>29</sup> *Ibid.*, paragraphs 15.15-15.20

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- the potential impact of lowering the minimum voting age on the quality of political decision-making (for example if it would result in the extension of the franchise to people who were not yet ready to take on such responsibility);<sup>30</sup>
  - the potential impact of lowering the minimum voting age on public confidence in the Assembly (for example, if there were insufficient public support for such a change);<sup>31</sup>
  - the potential impact of lowering the minimum voting age on electoral administration.<sup>32</sup>

**48.** In addition, a summary of voting ages elsewhere in the UK is set out in Annex 2, while Annex 3 details an analysis of arguments raised against a lowering of the voting age (and mitigations for such).

**49.** Following the Expert Panel's report, the Assembly Commission asked in its consultation *Creating a Parliament for Wales* whether the franchise should be extended to 16- and 17-year olds. The majority of respondents (59 per cent) considered that the voting age should be reduced to 16.<sup>33</sup> A more detailed analysis of the consultation is set out in chapter 5.3.

**50.** The *Senedd and Elections (Wales) Bill* provides for the extension of the Assembly franchise to allow 16- and 17-year olds to be able to register and vote in Assembly elections. Extending the franchise to 16- and 17-year olds necessitates other changes in relation to: the legislation around the electoral register, the annual canvass and the protection of young people's information.

**51.** The Expert Panel also considered that any lowering of the minimum voting age should be accompanied by appropriate, effective and non-partisan political and citizenship education. The panel considered that such education should be part of a broader range of actions taken by the Assembly, the Welsh Government and others to increase youth engagement and political participation.

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<sup>30</sup> Ibid., paragraphs 15.21-15.24

<sup>31</sup> Ibid., paragraphs 15.25-15.34

<sup>32</sup> Ibid., paragraphs 15.35-15.38

<sup>33</sup> Specifically, 59 per cent of the 1,530 responses to a question on whether the minimum voting age should be 18 or 16 thought that the minimum voting age for Assembly elections should be lowered from 18 to 16. It may be noted that 120 responses to this question were from people who identified themselves as being under the age of 18, of which a sizeable majority (81 per cent) thought that the minimum voting age for Assembly elections should be lowered to 16. For further information see [Creating a Parliament for Wales: Consultation Report](#), p.41.

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**52.** The Bill does not specifically address this need for education. However, it is anticipated that the change in voting age will be accompanied by ongoing political education and public information campaigns that are aimed at promoting awareness of the change in voting age.

**53.** Citizenship and political education are important parts of the curriculum and learners currently have the opportunity to study politics and current affairs through Personal and Social Education (PSE), Education for Sustainable Development and Global Citizenship and the new Welsh Baccalaureate.

**54.** The “Active Citizenship” theme in the existing PSE framework, the key document which schools and colleges should use to review and develop existing PSE provision for 7- to 19-year olds, allows learners to develop their knowledge on politics and their rights in a democratic society which reflects the United Nations Convention on the Rights of the Child.

**55.** The lowering of the voting age would require a drive for maximum rates of registration. This might be easier for this age group than for those a couple of years older because most of them are still at home and attending school. Every local authority will have a list of those who are home schooled and will be able to incorporate those who are attainers<sup>34</sup> or 16- and 17-years old into the annual canvass considerations.

**56.** Concerns may be raised that one group who may not be captured as part of a local registration campaign would be young people from the Gypsy, Roma and Traveller communities. However, as part of its responsibilities to promote awareness of elections, the Electoral Commission works with the Traveller Movement to encourage registration. It is anticipated that the Welsh Government will work with the Electoral Commission to replicate this approach in the canvass for 2020.

### 3.3.2. The need for changes to the law on disqualification from being an Assembly Member

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**57.** Not everyone is eligible to be an Assembly Member. A list of some of the criteria which disqualify someone from being an Assembly Member is included in sections 16 to 19 of the *GOWA 2006*. For example, Members of Parliament are not allowed to be Assembly Members, nor are judges, civil servants, Assembly officials, or public officials, such as the Public Service Ombudsman for Wales.

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<sup>34</sup> The word “attainers” refers to persons who are not old enough to vote in an election but who are expected to have reached the minimum voting age by the date of the poll for the next election.

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**58.** The *National Assembly for Wales (Representation of the People) Order 2007 (2007 Order)* requires candidates in an Assembly election, at the point at which they are nominated, to make a formal declaration that they are not disqualified from being Assembly Members. Failure to make this declaration means the candidate will not be allowed to stand for election. This effectively means that any person disqualified from being an Assembly Member by provisions in the *GOWA 2006* cannot stand for election to the Assembly.

**59.** In 2014 the Fourth Assembly's Constitutional and Legislative Affairs Committee held an inquiry into how the disqualification arrangements worked. It published a report<sup>35</sup> which made a number of recommendations on how the legal arrangements should be changed so that they worked more effectively:

- The *GOWA 2006* should be amended so that for most of the disqualifying offices, a person is only ineligible to be an Assembly Member if they hold the relevant role at the point at which they take the oath or affirmation of allegiance after they are elected. This means that, usually, a candidate in an Assembly election would not have to resign a disqualifying office in order to stand for election to the Assembly, therefore removing a significant barrier to standing for election. Some disqualifying offices where even being a candidate would give rise to a conflict of interest, for example that of Electoral Returning Officers or members of the Electoral Commission, should continue to take effect at the point of nomination, according to the Committee.
- As a consequence, the requirement for people to declare that they do not hold a disqualifying office before accepting nomination as a candidate should be removed from the *2007 Order*. The requirement would be unnecessary as most disqualifications would take effect at the point of taking the oath or affirmation of allegiance.
- The list of disqualifying offices should be made clearer, with the relevant offices being fully specified in legislation, rather than by way of reference to other legislation.
- Section 16(1) of the *GOWA 2006* should be amended to remove reference to the Auditor General for Wales and the Public Service Ombudsman for Wales, which should, instead be listed with other, similar offices in the relevant Disqualification Orders.

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<sup>35</sup> Constitutional and Legislative Affairs Committee (Fourth Assembly), [Inquiry into the Disqualification from Membership of the National Assembly for Wales](#), July 2014

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- Section 16(4) of the *GOWA 2006* should be amended to clarify that anyone holding office as a lord lieutenant, lieutenant or high sheriff is disqualified from being an Assembly Member for any Assembly constituency or region, rather than only for the constituencies or regions wholly or partly included in the area they serve.
  - On the basis of there being a conflict of interest in serving in two legislatures which scrutinise legislation, members of the House of Lords should be disqualified from being Assembly Members. The Committee recommended that the prohibition should not apply to members of the House of Lords serving as Assembly Members at the point at which legislation was introduced to prohibit this practice.

**60.** The Assembly Commission's consultation therefore asked whether legislation to reform the Assembly's electoral arrangements should include provision to implement the Fourth Assembly's Constitutional and Legislative Affairs Committee recommendations in relation to disqualification from being an Assembly Member.

**61.** Of the 510 responses to this question:

- 34 per cent (180) agreed that legislation to reform the Assembly's electoral arrangements should include provision to implement the Committee's recommendations in relation to disqualification from being an Assembly Member;
- 13 per cent (70) of responses disagreed; and
- the remainder did not firmly agree or disagree with the question, or said that they had not understood the question.

**62.** Reflecting that it was a majority view amongst respondents who expressed a firm view on this question, the Bill includes provisions to implement the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee in relation to disqualification from being an Assembly Member.

**63.** This should remove some barriers to standing for elections and enable more people to stand for election because they will not have to give up their employment to do so. The aim is that this lessening of a barrier to standing for office may lead to a potential increase in diversity of representation as well as to a more effective process.

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### 3.3.3. The need for a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums

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**64.** The *GOWA 2006* (as amended by the *WA 2017*) provides the Assembly with competence to legislate on the following matters as they relate to Assembly and local government elections in Wales:

- the financing of the Electoral Commission (EC);
- The preparation, laying and publication by the EC of reports about the performance of its functions;
- Provision by the EC of copies of regulations it has made, altered or revoked.

**65.** Following the passing of the *WA 2017*, the EC initiated discussions with the Llywydd on making the EC accountable to the Assembly for its work on Welsh devolved elections, and on such work being financed by the Assembly. The EC also held similar discussions with the Scottish Parliament following the passing of the *Scotland Act 2016* which provided the Scottish Parliament with competence to legislate on the same aspects of the EC's arrangements in relation to Scottish devolved elections.

**66.** It is understood the Scottish Government intends to introduce legislation on electoral reform in 2019,<sup>36</sup> and that this legislation will include provisions to:

- allow the Scottish Parliament's Corporate Body<sup>37</sup> to finance the EC's work relating to Scottish devolved elections;
- make the EC accountable to the Scottish Parliament for such work; and
- introduce specific changes recommended by the EC to the arrangements for Scottish devolved elections.

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<sup>36</sup> Scottish Government, *Delivering for Today. Investing for Tomorrow* – The Scottish Government's Programme for Scotland 2018-19, September 2018.

<sup>37</sup> The Scottish Parliament's Corporate Body is the Scottish Parliament's equivalent of the National Assembly for Wales Commission.

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### 3.3.4. The need for a regulation-making power to implement Law Commission recommendations

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**67.** As part of its Eleventh Programme of Law Reform, the Law Commissions of England and Wales, Scotland and Northern Ireland conducted a joint electoral law reform project. Its interim report,<sup>38</sup> published in February 2016, made recommendations to rationalise the current laws relating to elections into a single, consistent legislative framework, which provided consistency across different elections (subject to differentiation due to the voting system or other justifiable principle or policy). Its recommendations covered issues including the manner of voting, electoral offences, and the regulation of campaign expenditure. To date, the UK Government has not formally responded to the Law Commission's interim report.

**68.** The Assembly Commission's consultation therefore asked whether legislation to reform the Assembly's electoral arrangements should implement the Law Commission's recommendations in relation to the conduct and administration of elections.

**69.** Of the 420 responses to this question, 57 per cent (240) considered that the Assembly should legislate to implement the Law Commission's recommendations in relation to the conduct and administration of elections.

**70.** Reflecting this majority view, the Bill enables the Welsh Ministers to make orders to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration made by the Law Commission.

**71.** This provision has been drafted so as to ensure that:

- the power may only be used to give effect to recommendations of the Law Commission in relation to the rationalisation of electoral law; and
- the power will be subject to the affirmative procedure.

### 3.3.5. The need for extending the deadline for the first meeting of the Assembly after an election

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**72.** In common with the other devolved UK legislatures, the way in which the Assembly operates (i.e. its procedures and practices) are determined by a

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<sup>38</sup> Law Commission, Scottish Law Commission, Northern Ireland Law Commission, [Electoral Law: A Joint Interim Report](#), February 2016

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combination of legislative provisions, the Assembly's own Standing Orders, practice and precedent.<sup>39</sup>

**73.** The requirements that are set out in legislation are mostly found in the *GOWA 2006*. The *WA 2017* gave the Assembly power to change certain provisions in the *GOWA 2006* that govern its internal ways of working.

**74.** In light of historical experience – and in line with reforms previously made to the arrangements of the Scottish Parliament by the *Scotland Act 2012*<sup>40</sup> – the Assembly Commission proposed that the *GOWA 2006* should be changed to increase the time limit on when the first meeting after an Assembly election must be held. Specifically, the Commission proposed that the time limit should be increased from 7 days to 14 days, thus extending the opportunities for discussions and negotiations between political parties after an election. This is particularly important for proportional electoral systems such as that in use in the Assembly, which may be considered less likely to produce majority one-party governments, and where such discussions and negotiations may have a substantial political impact for years to come.

**75.** The Assembly Commission's consultation<sup>41</sup> asked respondents whether they agreed that the *GOWA 2006* should be amended in order to give the Assembly greater flexibility to determine its own working practices and arrangements through its internal procedures rather than in legislation.

**76.** Of the 770 responses to a question, 60 per cent (460) supported the proposed reforms to provide greater flexibility for the Assembly to determine its own ways of working, with 30 per cent (240) opposed.

**77.** The Bill includes provision to amend the relevant provisions in the *GOWA 2006* to increase the time limit for the first meeting after an Assembly election from 7 to 14 days.

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<sup>39</sup> Standing Orders are the formal rules that set out the Assembly's procedures. They are agreed, and can be amended, by a resolution of the Assembly on the basis of a two-thirds majority. Any changes must be proposed to the Assembly by the Assembly's Business Committee, which includes representatives of all parties represented in the Assembly.

<sup>40</sup> Scotland Act 2012, [www.legislation.gov.uk/ukpga/2012/11/part/1/crossheading/the-scottish-parliament/enacted](http://www.legislation.gov.uk/ukpga/2012/11/part/1/crossheading/the-scottish-parliament/enacted) (section 4(3))

<sup>41</sup> National Assembly for Wales Commission, [Creating a Parliament for Wales: consultation document](#), February 2018

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### 3.3.6. The need for clarifying the Assembly Commission's powers to charge for goods and services

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**78.** Schedule 2 of the *GOWA 2006* makes provision in relation to the Assembly Commission's powers to charge for goods and services, whether or not those goods and services are in connection with the discharge of its functions. The power to charge for goods and services in connection with the discharge of functions (paragraph 4(2)(b)) is unambiguous.

**79.** Paragraph 4(4) of the *GOWA 2006* makes provision in relation to the Assembly Commission's powers to charge for goods and services which are not in connection with the discharge of its functions. This power, for example, allows the Commission to sell goods in its Assembly shop.

**80.** However, the provisions in the legislation are ambiguous, as they refer to the sale of goods and the provision (rather than sale) of services. Consequently, it is unclear whether the Assembly is able to charge for services which are not in connection with the discharge of its functions, for example filming on the Assembly estate.

**81.** In Northern Ireland, similar provisions are interpreted as allowing the Northern Ireland Assembly Commission to charge for the provision of services not in connection with the discharge of its functions.

**82.** The Bill has been drafted to resolve any possible ambiguity by clarifying that the Assembly Commission can charge for the provision of services (as well as goods) not in connection with the discharge of its functions.

**83.** For clarity, the Assembly Commission has no plans to charge for services delivered other than in connection with its functions. However, clarifying the legislation to remove the ambiguity would reduce the potential for any future legal challenge.

### 3.4. The rationale for not addressing particular matters within the Bill

**84.** Explanatory Memorandums to legislation typically set out the rationale and need for what "is" in a particular Bill, but do not typically set out a rationale for what "is not" in a particular Bill.

**85.** However, given the wider context of the Expert Panel's recommendations, and the Assembly Commission's two-phase legislative approach, it is considered appropriate that this Explanatory Memorandum sets out the rationale for not

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addressing a number of matters in this Bill. These are considered in the subsections below.

### 3.4.1. Rationale for the Senedd and Elections (Wales) Bill not addressing the number of Members at the Assembly, and the electoral system by which they are elected

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**86.** On 18 July 2018, the Llywydd's written statement on the outcome of the public consultation, "Creating a Parliament for Wales" outlined that a number of matters related to the broader picture of elections in Wales (including the number of Assembly Members, and electoral system) would not be addressed through this Bill, but instead would be considered in a second legislative phase. Specifically, the Llywydd stated that:

"It is clear that there needs to be more time for discussions to take place. Although I am confident, from conversations to date, and from the response to the public consultation, that there is sufficient support for the proposal to increase the number of Assembly Members, there is not yet consensus on the voting system that should be used to elect that larger institution.

As we cannot make a decision on electing more Members without also deciding how they are to be elected, we have to allow time for those discussions to continue over the coming months."<sup>42</sup>

### 3.4.2. Rationale for the Senedd and Elections (Wales) Bill not addressing voting rights for prisoners, voting rights for EU citizens and standing for election on the basis of job sharing

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**87.** In the same statement, the Llywydd also set out a number of decisions in relation to votes for prisoners, voting rights for EU citizens, and standing for election on the basis of job sharing.

**88.** On prisoner voting, the Llywydd stated that:

"The legal, ethical, democratic, practical and human rights issues relating to prisoner voting require thorough political consideration and judgement. We believe that further work is needed in this area to consider further evidence and this requires more time than we have to be able to properly consider it for inclusion in the Commission's

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<sup>42</sup> National Assembly for Wales Commission, [The Commission's Assembly Reform priorities following the outcome of the public consultation, "Creating a Parliament for Wales"](#), 18 July 2018

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legislation. As a legislature, we must take our obligations seriously. As such, the Commission believes that the right approach in the first instance is to invite the Equality, Local Government and Communities Committee to consider holding an inquiry to examine the issue of whether prisoners from Wales should be allowed to vote in elections to the National Assembly.”<sup>43</sup>

**89.** On the voting rights of EU citizens, the Llywydd stated that:

“The franchise for the Assembly currently allows a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union to vote. While the details of the Brexit deal in relation to voting rights for EU citizens are not yet clear, the European Union (Withdrawal) Act 2018 preserves the entitlement of EU citizens to vote in Assembly and local government elections after exit day. The Assembly Commission is therefore satisfied that no further action is needed at this time to protect EU citizens’ right to vote in Assembly elections, although we will continue to monitor the situation.”<sup>44</sup>

**90.** On the issue of job sharing, the Llywydd stated that

“the Assembly Commission feels that it should not legislate at this time is the recommendation of the Expert Panel that individuals should be permitted to stand for election on the basis of job sharing ... We believe that there is insufficient support for this idea at the moment within the Assembly and among the public, and that those in favour require more time to make and build their case. This is a complex policy area that requires a good deal more work in order to ensure that it could be implemented effectively. In addition, the legal advice I have received casts doubt on the competence of this Assembly to make the changes needed to implement this policy, specifically in allowing a job-sharing Member to become a Minister or a Cabinet Secretary. I would have grave reservations about introducing a system which created two tiers of Assembly Members.”<sup>45</sup>

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

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### 3.4.3. Rationale for the Senedd and Elections (Wales) Bill not addressing the treatment of electoral expenses

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**91.** The Assembly Commission determined that the Bill would not introduce changes to the treatment of electoral expenses, on the basis that Welsh Ministers now have the power to make changes through secondary legislation instead.

**92.** The Electoral Commission, in its report on the 2016 Assembly election, noted that the rules for the treatment of spending by non-party campaigners, as set out in the *Political Parties, Elections and Referendums Act 2000 (PPERA 2000)*, had been updated to:

- exempt costs arising in relation to translation between Welsh and English from expenditure limits; and
- exempt reasonable costs which could be attributed to an individual's disability from expenditure limits.

**93.** The Electoral Commission recommended that similar exemptions should be introduced in relation to the expenditure limits for political parties and candidates.<sup>46</sup> It was proposed that introducing such exemptions in relation to translation costs could encourage greater use of the Welsh language during election campaigns, and, in relation to disability, could reduce barriers which could prevent people with disabilities from standing for election or participating in political campaigns.

**94.** The Assembly Commission's consultation therefore asked respondents whether they agreed that legislation to reform the Assembly's electoral arrangements should include provision to implement the Electoral Commission's recommendations that costs relating to translation between Welsh and English should not count towards expenditure limits for political parties and candidates in relation to Assembly elections (as they already are for non-party campaigners).

**95.** Of the 750 responses to this question:

- 71 per cent (530) felt that the Assembly should legislate to ensure costs relating to translation between Welsh and English did not count towards expenditure limits for political parties and candidates in Assembly elections;

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<sup>46</sup> Electoral Commission, *The National Assembly for Wales General Election: report on the administration of the 2016 elections to the National Assembly for Wales*, September 2016

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- 21 per cent (150) of respondents disagreed.<sup>47</sup>

**96.** The Assembly Commission's consultation also asked respondents whether they agreed that legislation to reform the Assembly's electoral arrangements should include provision to implement the Electoral Commission's recommendations that costs relating to an individual's disability should not count towards expenditure limits for political parties and candidates in relation to Assembly elections (as is the case for non-party campaigners).

**97.** Of the 700 responses to the second part of this question, 86 per cent (600) felt the Assembly should legislate to ensure costs relating to an individual's disability do not count towards expenditure limits for political parties and candidates in Assembly elections, as recommended by the Electoral Commission.

**98.** However, following this consultation, on 24 May 2018 the powers to implement these recommendations were transferred to Welsh Ministers through the *Welsh Ministers (Transfer of Functions) Order 2018*.<sup>48</sup> This meant that these recommendations could now be implemented:

- through the *Senedd and Elections (Wales) Bill*; or
- through secondary legislation moved by Welsh Ministers.

**99.** The advantage of the latter approach was that it would allow the Electoral Commission's recommendations to be addressed alongside other matters of electoral regulation and ensure a consistent framework for Assembly and local elections in Wales, taking account of any UK General Election regulatory periods.

**100.** On 24 September 2018, the First Minister wrote to the Llywydd<sup>49</sup> to indicate that the Welsh Government agreed with the Assembly Commission that both the costs relating to translation between Welsh and English, and those costs attributable to an individual's disability should be exempt from electoral expenditure limits. The First Minister also stated that the Welsh Government's view was that it would be more appropriate for these matters to be addressed through secondary legislation.

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<sup>47</sup> National Assembly for Wales Commission, [Creating a Parliament for Wales: Consultation report, October 2018](#), p.64

<sup>48</sup> Welsh Ministers (Transfer of Functions) Order 2018, [www.legislation.gov.uk/ukdsi/2018/978011167946/contents](http://www.legislation.gov.uk/ukdsi/2018/978011167946/contents)

<sup>49</sup> First Minister of Wales, Letter to the Llywydd: Implementation of Electoral Commission recommendations on electoral expenses, 24 September 2018

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**101.** In the same correspondence, the First Minister noted that there remained complex competence issues in this area, which Welsh Government officials were working with the UK Government to resolve. Provided these issues were resolved, the First Minister confirmed that it was the Welsh Government's intention to make these changes via secondary legislation for the 2021 Assembly Elections.

**102.** On the basis of this commitment, the Assembly Commission resolved not to include in the *Senedd and Elections (Wales) Bill* provisions to deliver the recommendations of the Electoral Commission.

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## 4. What the Bill does

### 4.1. Summary

**103.** The purpose of the Bill is to:

- rename the Assembly to “Senedd” to better reflect the evolution of its constitutional status, to the national parliament that it is today;
- lower the minimum voting age of Assembly elections to 16; and
- deliver other reforms to the Assembly’s electoral and operational arrangements that could make it a more accessible and effective legislature.

### 4.2. Name of the Assembly

#### 4.2.1. Determination of proposed name: “Senedd”

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**104.** The previous chapters set out that since 1999, the Assembly has changed significantly but incrementally. It is now formally separated from the Welsh Government, has the power to pass laws and agree taxes, as well as to hold the Welsh Government to account for all of its decisions and its use of a £15 billion annual budget.

**105.** The development of Welsh devolution has moved at pace, as successive legislation has been passed to adjust the institution’s constitutional underpinnings – the *GOWA 1998*, to the *GOWA 2006*, the *WA 2014* and the *WA 2017*. However, the pace and scale of this constitutional change has had an impact on the consistency and extent to which the public understands the role of the Assembly and the matters for which it has responsibility.

**106.** In the course of its work, the Assembly Commission has collected a range of information that suggests there is confusion over the different roles of the Assembly and the Welsh Government, and over the scope of the Assembly’s powers and responsibilities. This information is reflected in the electoral turnout for Assembly elections and public perception surveys. This is not aided by the fact that the Welsh Government was, until the passing of the *WA 2014*, formally known as the Welsh Assembly Government. The similarity between the names of the two organisations, combined with their roots in the single corporate body originally established in 1999 by the *GOWA 1998*, has contributed to confusion about the distinct roles of the legislature and the executive.

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**107.** The Assembly agreed unanimously in July 2016 that the institution should “change its name to reflect its constitutional status as a national parliament”, and to provide a more accurate description of the institution’s role and responsibilities.<sup>50</sup> During the debate, Assembly Members expressed their hopes that a change in the name of the institution could play a role in improving public engagement with the Assembly, by increasing understanding of the powers devolved to the legislature and government in Wales, and increasing levels of democratic participation. The Assembly Commission subsequently published a consultation on the name of the institution, which highlighted its desire for “the name of the institution to contribute to a wider public understanding of its role”.<sup>51</sup>

**108.** As previously noted, the consultation found that:

- around three fifths (59.7 per cent) of respondents disagreed with the statement that, “The role of the National Assembly for Wales is well understood”;
- the majority (80.1 per cent) of respondents agreed that “The name of an institution is important to explain what it does”;
- over three fifths (60.9 per cent) of respondents agreed with the statement, “The National Assembly for Wales should change its name”.<sup>52</sup>

**109.** On the basis of the consultation, the Commission decided in June 2017 that it would introduce legislation to change the name of the Assembly to Welsh Parliament / Senedd Cymru, and make associated changes to the names, titles and descriptors of relevant office holders or bodies.

**110.** However, on 10 October 2018, Assembly Members debated a proposal seeking the Assembly’s agreement to introduce a Commission-proposed Bill. During this debate, a number of Assembly Members advocated that the Assembly should be renamed as the “Senedd”, in order to ensure greater public understanding of the role of the institution.

**111.** Following this public debate, engagement between the Llywydd (as the Chair of the Assembly Commission) and individual Assembly Members and party groups took place. It emerged that the monolingual name “Senedd” carried more

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<sup>50</sup> National Assembly for Wales, [Record of Proceedings](#), 5 July 2016

<sup>51</sup> National Assembly for Wales Commission, [Consultation: Changing the name of the National Assembly for Wales](#), December 2016.

<sup>52</sup> National Assembly for Wales Commission, [Changing the name of the National Assembly for Wales Consultation results report](#), June 2017, p.2

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support amongst Assembly Members than any of the other names considered, including Welsh Parliament / Senedd Cymru.

**112.** Since 1 March 2006, the Assembly has been located within a building known as the Senedd. The name “Senedd” is widely used and recognised in Wales to denote the home of Welsh democracy. It is considered that using a name which already has resonance in Wales will help build public recognition and understanding of the work of our national parliament as distinct to that of Welsh Government. This would also reflect the Assembly’s strong commitment to promote the status and use of the Welsh language and follow the successful examples of the Dáil Éireann and Seanad Éireann (the two houses that make up the Tithe an Oireachtas / Houses of the Oireachtas). These are monolingual Gaelic names which are widely used and understood in Ireland and beyond.

**113.** The name “Senedd” belongs to an international family of names such as “Senate” and “Seanad” used to describe national legislatures or chambers within legislatures. In that respect the renaming of the Assembly as “Senedd” would provide the institution with a name which would be easily recognised in some parts of the world as a reference to a national, parliamentary legislature.

**114.** On this basis, it was decided that the name of the Assembly should be changed and that the Bill on introduction would propose the name “Senedd”. It is of note that in response to an Assembly Commission consultation on changing the name of the Assembly, 53 per cent of people said that the name “Senedd” would positively describe the role and responsibilities of the National Assembly for Wales (see section 5.2.3 below for the full findings of that consultation).

**115.** Section 2 of the Bill which stipulates that the Assembly will be known as “Senedd”, provides that the “Senedd” may also be known as the “Welsh Parliament”. Allowing for the use of “Welsh Parliament” alongside the name “Senedd” will assist those not familiar with the Welsh word to understand the meaning of the name and will further emphasise the constitutional status of the institution as a national parliament for Wales.

**116.** In developing this provision, consideration was given to the question of whether legislating for the Senedd to also be known as the “Welsh Parliament” may, rather than assist understanding, conversely leave the law unclear. For example, different laws passed at either UK or Welsh level could potentially refer to either the “Senedd” or to “Welsh Parliament” as the name of the institution.

**117.** In addition, Section 1(1) of the GOWA 2006 will only be partly amended to state that “There is to be an Assembly for Wales to be known as the “Senedd”. This

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drafting is less than ideal as it leaves the word “Assembly” in the provision of the *GOWA 2006* under which the institution was created.

**118.** In developing this provision, consideration was also given to an alternative form “There is to be a Welsh Parliament to be known as the Senedd”. This would be a clearer, more accessible statement of law to aid public understanding and would also achieve the objective of removing the word “Assembly” from the *GOWA 2006*.

**119.** However, the reason for the approach adopted in the Bill reflects restrictions placed on the Assembly’s legislative competence by the *GOWA 2006*. This is set out in more detail in Annex 4. For this reason alone, the Bill has not been drafted to remove the term “Assembly” completely from the *GOWA 2006*.

**120.** Given this position, intergovernmental guidance could potentially address how legislative drafting should be approached to provide clarity on how the term “Senedd” and “Welsh Parliament” should be used in law.

**121.** Assembly branding guidance and material associated with the name change will reflect the primacy given to the name “Senedd”, with “Welsh Parliament” used to describe what the term means in English. An illustrative example of this approach is included below:



**122.** It is anticipated that “Welsh Parliament” will also be used alongside the name “Senedd” on signage and other types of public information to help to ensure public understanding of the meaning of the new name.

**123.** The words “Senedd” and “Parliament” are commonly used at present to reference the UK Parliament. This raises the possibility that the name “Senedd” as a new name for the Assembly could be misinterpreted in the Welsh language as a reference to the UK Parliament. However, it may be noted that the Welsh term “Prif Weinidog” is used for both the UK’s Prime Minister and Wales’ First Minister, and has not been the source of significant confusion. Moreover, to address this risk, the passing of legislation to change the name of the Assembly will be accompanied by public information campaigns to ensure awareness and understanding of the new name. This will provide an opportunity to develop

familiarity with the name Senedd, its meaning, and the distinction between “Senedd” and “Senedd y DU” or “UK Parliament” (or “Senedd San Steffan”), amongst the public, media and within the Assembly itself. The use of “Welsh Parliament” alongside the name “Senedd” will further aid understanding of the distinction between the “Senedd” and “UK Parliament”.

**124.** Table 1 below sets out the new name of the Assembly, as proposed in the Bill, and also all associated names and titles in both Welsh and English:

**Table 1 Proposed changes to the names, titles and descriptors associated with the Assembly**

| <b>Current</b>   | <b>Proposed</b>   |
|--|---|
| National Assembly for Wales<br>Cynulliad Cenedlaethol Cymru  | Senedd<br>Senedd  |
| Assembly Member (AM)<br>Aelod Cynulliad (AC)   | Member of the Senedd (MS)<br>Aelod o'r Senedd (AS)                                    |
| Assembly Members (AMs)<br>Aelodau Cynulliad (ACau)   | Members of the Senedd (MSs)<br>Aelodau'r Senedd (ASau)                                |
| Clerk of the National Assembly for Wales<br>Clerc Cynulliad Cenedlaethol Cymru                                   | Clerk of the Senedd<br>Clerc y Senedd   |
| National Assembly for Wales Commission<br>Comisiwn Cynulliad Cenedlaethol Cymru                                  | Senedd Commission<br>Comisiwn y Senedd  |
| Act of the National Assembly for Wales<br>Deddf Cynulliad Cenedlaethol Cymru                                     | Act of the Senedd<br>Deddf y Senedd   |
| National Assembly for Wales<br>Commissioner for Standards<br>Comisiynydd Safonau Cynulliad<br>Cenedlaethol Cymru | Senedd Commissioner for Standards<br>Comisiynydd Safonau y Senedd                     |
| National Assembly for Wales<br>Remuneration Board<br>Bwrdd Taliadau Cynulliad Cenedlaethol<br>Cymru              | Independent Remuneration Board of the<br>Senedd<br>Bwrdd Taliadau Annibynnol y Senedd |

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**125.** When referencing Members of the Assembly, the titles “Assembly Member” and “Aelod Cynulliad” are often abbreviated to AM and AC respectively (for example by Members themselves, the media and others). One consideration within the renaming of the Assembly is the acronyms of the new titles of its Members. “Member of the Senedd” would be abbreviated to “MS” and “Aelod o’r Senedd” would be abbreviated to “AS”. There is a risk that the acronym AS as an abbreviation of Aelod o’r Senedd could be confused with the same acronym for Aelod Seneddol which means Member of Parliament in Welsh, especially within contexts in which members of both legislatures are referenced. A person or organisation referencing a member of one or both legislatures will therefore need to find ways of making it clear to their audience who they are referring to. This could include, for example, using the full titles “Aelod o’r Senedd” and “Aelod Seneddol” where members of both legislatures are referenced, rather than the acronyms of those titles, or explaining by other means who exactly they are referring to.

**126.** Across the world, a range of different names are used for democratic institutions with legislative powers and tax-varying powers. A number of examples are set out in Annex 5.

#### 4.2.2. Why legislation is needed

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**127.** Before deciding it was necessary to legislate on this matter, the Assembly Commission first gave consideration to informally changing the name of the National Assembly for Wales, which would not have required legislation to be passed.

**128.** However, Section 1 of the *GOWA 2006* provides that the institution is “to be known as the National Assembly for Wales or Cynulliad Cenedlaethol Cymru”.<sup>53</sup> The wording of section 1 of the *GOWA 2006* could be interpreted as prohibiting the use of any other name, even informally, although it is considered unlikely that a move to change the Assembly’s name informally would lead to a legal challenge.

**129.** In the event of an informal name change, the institution would have continued legally to be known as the National Assembly for Wales. Legislation passed by the Assembly would have continued to be Acts of the Assembly. Primary and secondary legislation passed by the Assembly or the UK Parliament would have continued to refer to the institution as the National Assembly for Wales. Legal documents or contracts would have similarly continued to refer to

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<sup>53</sup> Section 1, Government of Wales Act 2006

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the National Assembly for Wales. The legal names of the Standards Commissioner, Remuneration Board and Assembly Commission would likewise have remained unchanged.

**130.** There are significant risks associated with pursuing an informal name change without a legislative footing. In addition, the inconsistency between the formal and informal names used for the institution would give rise to confusion and reputational risk, undermining some of the key objectives of the name change: addressing public confusion about the role of the Assembly, and clarifying that it was a distinct entity in its own right, rather than part of the Welsh Government. It would be difficult to explain to the public and stakeholders why different terms were used in different contexts as legal documents, Standing Orders and formal business would continue to have to refer to the Assembly.

**131.** The Commission concluded that if an informal name change were pursued then confusion and lack of understanding about the role of the Assembly could be considerably exacerbated. The Commission concluded that it would not represent a good use of public funds to pursue an informal change in the institution's name. In order to be effective and implemented with the dignity and clarity appropriate to Wales' primary democratic institution, a legislative approach was preferred.

#### 4.2.3. Implementation of name change

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**132.** The Bill sets out that commencement of the provisions to change the Assembly's name will take place on 6 May 2020.

**133.** However, prior to this date, a range of work will take place on the Assembly estate to prepare for the name change. This will include preparation of:

- changes to the signage and fittings in Colwyn Bay and Cardiff Bay;
- redesign of internal templates (for example, committee report templates);
- a change of the Assembly's post code (from CF99 1NA, as the letters "NA" currently refer to the *N*ational *A*ssembly for Wales);
- a change to the Assembly's website domain name;
- editing of some "higher tier" website content (for example, the front page);
- stationery with the new name (produced in house);

- 
- phased editing of “maintained”<sup>54</sup> publications (including production of BSL, multilingual and Easy Read formats).

**134.** Following the legal change of the Assembly’s name, there will be:

- promotion and awareness-raising of the new name;
- further editing of the Assembly’s website content to reflect the name change (for example, live committee inquiries);
- continued phased editing of “maintained” publications (including production of BSL, multilingual and Easy Read formats);
- changes to highway signage;
- editing of references to the Assembly on other organisations’ websites.

**135.** There will not be a sanction in the event of the old name being used after the commencement of the relevant provisions.

**136.** Legal contracts that currently refer to the Assembly will automatically be read as referring to the Senedd.

**137.** The Remuneration Board will work with the Assembly Commission to determine any additional funding flexibility required for Assembly Members to make changes to their constituency and regional office signs, banners, web domains, stationery, etc.

**138.** Further information about the proposed implementation of this legislation is set out in the regulatory impact assessment of this Explanatory Memorandum.

### 4.3. Entitlement to vote in Assembly elections

#### 4.3.1. Background and policy context

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**139.** As previously noted, only people aged 18 and over are currently eligible to vote in UK elections. People aged 16 and 17 are able to register to vote if they will turn 18 within 12 months beginning with the 1<sup>st</sup> December following the application for registration. 16- and 17-year olds were allowed to vote in the UK for the first time in the referendum on Scottish independence, held on 18 September

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<sup>54</sup> The term “maintained” is used to refer to documents that are constantly used on an ongoing basis (for example a public guide to the Assembly), and are not specifically time-based. For example, a committee report published under the Assembly’s old name would not be edited to refer to the Assembly’s new name.

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2014. Since the Scottish referendum, 16- and 17-year olds in Scotland have also voted in Scottish local and Scottish parliamentary elections. The Isle of Man extended the franchise to 16- and 17-year olds in 2006.

**140.** As previously noted, there are a number of arguments in favour of enabling 16- and 17-year olds to vote in Assembly elections. These include:

- strengthening democratic accountability, by enabling a wider section of the community to have a direct role in Assembly elections;
- enabling increased engagement in voting over the longer-term (on the basis that an earlier experience of voting could lead to individuals maintaining their engagement);
- it being anomalous for the voting age of Assembly elections not to be lowered to 16, if the Welsh Government decides to legislate to reduce the voting age for local government elections in Wales.

**141.** In a debate in the Assembly in May 2013, a clear majority of members voted in favour of reducing the voting age, with the agreed motion stating that the Assembly:

“Regrets that around 77,000 16- and 17-year olds in Wales are currently denied the vote and believes that democratic accountability would be strengthened by allowing 16- and 17-year olds to vote in elections to local councils.”<sup>55</sup>

#### 4.3.2. Why legislation is needed

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**142.** In essence, it is simply not possible to change the voting age without legislation.

**143.** The Bill therefore provides for the extension of the Assembly franchise to allow 16- and 17-year olds to be able to register and vote in Assembly elections.

**144.** As well as extending the franchise to 16- and 17-year olds, other changes are necessary in relation to the legislation around the electoral register, the annual canvass and the protection of young people’s information.

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<sup>55</sup> National Assembly for Wales, [Record of Proceedings](#), 14 May 2013

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### 4.3.3. Current system of registration

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**145.** In order to vote in elections or referendums, an eligible person needs to be on the electoral register. Section 9 of the RPA 1983, as amended, states that:

“Each registration officer shall maintain—

(a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and

(b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts.”

**146.** The electoral register is a list of the names and addresses of everyone who is able and registered to vote (or soon to become entitled to vote) and is held and maintained by the Electoral Registration Officer (ERO) for each principal council.

**147.** EROs have a duty to compile the electoral register and ensure that it is as up to date as possible. EROs will send an Invitation to Register (ITR) to any individual they become aware of who is not registered to vote. Currently, a Household Enquiry Form is issued annually to every property to collect information to ensure anyone living at the property who is eligible to be registered is on the register. There is a legal requirement to respond, and ITRs will be sent to anyone responding to the canvass who is not registered.

**148.** In 2014, the UK Government moved from a system of household registration, where the head of the household completed the registration forms on behalf of all members of each household, to a system of individual electoral registration (IER). IER requires an individual – when registering – to provide his/her national insurance number, date of birth, name and address. National Insurance numbers are used for data matching verification with Department for Work and Pensions’ records and are then destroyed by the ERO (as directed by section 29ZB (3) of the *Representation of the People (England and Wales) Regulations 2001*).<sup>56</sup>

**149.** IER can be completed online through the UK Government’s digital system. The rolling registration process enables individuals to register or update their details at any time of the year by informing the ERO.

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<sup>56</sup> Representation of the People (England and Wales) Regulations 2001, [www.legislation.gov.uk/uksi/2001/341/contents/made](http://www.legislation.gov.uk/uksi/2001/341/contents/made)

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**150.** There are two versions of the electoral register; the full register and the edited register.

**151.** The full register (also known as the closed register) is updated monthly and published once a year. It is used by EROs and Returning Officers for purposes related to elections and referendums.

**152.** It is also used by local authorities for their duties relating to security, law enforcement and crime prevention. For example, it can be used for checking entitlement to council tax discount, or housing benefit. It may also be used by the police for law enforcement purposes. The courts use the register to summon people for jury service. It is also available to political parties for election purposes.

**153.** The full register can also be sold to government departments to help in their duties (such as the prevention or detection of crime). Government departments can also use it for vetting job applicants and employees, if this is required by law.

**154.** Similarly, credit reference agencies are allowed to buy the full version of the register so that lenders can check the names and addresses of people applying for credit and carry out identity checks to help stop money laundering.

**155.** The edited register (also called the open register) contains the same information as the full register, but:

- it is not used for elections or referendums; and
- individuals can choose whether or not to have their details included in the edited register.

**156.** The edited register is updated and published every month and can be sold to any person, organisation or company for a wide range of purposes. Users of the register typically utilise it for the purpose of checking names and address details. Users of the register include businesses, charities, direct marketing firms and online directory firms.

**157.** Changes are included within the *Senedd and Elections (Wales) Bill* which amend the existing legislation with respect to the franchise (by lowering the voting age to 16). Consequential changes are made to the registration process in relation to young voters. For example, the Bill provides for particular arrangements to deal with the canvass of young people and the protection of their information. More background on some of the key changes are below with the explanatory notes setting out the detail of the changes.

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#### 4.3.4. Registration and Annual canvass

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**158.** Young people aged 16 and 17 will be added to the register of local government electors, and young people who will turn 16 during the period the register is in force will be able to register to vote as an attainer. This will include 15-year olds and some 14-year olds.

**159.** Further changes are introduced in preparation for the annual canvass that will take place in 2020 so that young people may be included in that process, including:

- removing a requirement for a registration officer to carry out house to house enquiries in relation to the registration of a person under the age of 16;
- not printing the date of birth of a person under the age of 16; and
- ensuring explanation is given as to how young people's information will be stored and used.

**160.** The Bill also provides that the civil penalty which could be applied in the case of an elector repeatedly not responding to an invitation to register does not apply to a person under the age of 16.

#### 4.3.5. Protection of information about young people

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**161.** The Bill contains provisions setting out the arrangements for the protection of information about people who, at the time of publication or disclosure, are under the age of 16 (except where the release of such information is in accordance with a person's activities outlined in the *Senedd and Elections (Wales) Bill*). Any person who releases a young person's information – other than in accordance with this Bill – commits an offence and will be liable on summary conviction to a fine. This means the person can only be prosecuted in the Magistrates Court (rather than the Crown Court) and can only be fined not imprisoned.

#### 4.3.6. Anonymous registration

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**162.** In certain circumstances an individual will want to register anonymously to vote.

**163.** The *Representation of the People (England and Wales) Regulations 2001 (SI 2001/341)* already sets out a list detailing circumstances in which a person can register anonymously to vote. The Bill changes this list, to allow a person authorised by a director of social services in Wales to sign an attestation certifying

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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.

#### 4.3.7. Declaration of local connection

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**164.** Looked After Children are children who are in the care of the local authority (and may also be accommodated by them). These young people may have less stability in their residence and some may move frequently between locations in Wales (and indeed England).

**165.** For this reason, the Bill enables these young people<sup>57</sup> to register to vote for the place in Wales where they may have a local connection. In practice such young people will not require any form of "proof" of local connection at the point of making an application to register to vote, although EROs may ask for further information (for example, from the local authority which is responsible for their care).

**166.** The Bill therefore amends the *Representation of the People (England and Wales) Regulations 2001 (SI 2001/341)* allowing individuals to make a declaration of local connection, to allow people under the age of 18 and those who are looked after to make a declaration of local connection.

**167.** This will mean young people who are looked after "out of county" will be allowed to register to vote in the area where they are most connected.

#### 4.3.8. Service declaration

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**168.** Individuals who have a "service qualification" (members of the armed forces, or otherwise individuals employed in the service of the Crown or British Council in a post outside the United Kingdom) can be registered as an elector based overseas.

**169.** The Bill provides that those under the age of 18 can be considered for a service qualification, as an individual.

**170.** The Bill also provides that a young person may be granted a service qualification on the basis that they live with parents/guardians who themselves have a service qualification. In the case of a young person granted a service declaration on that basis, the service declaration will end when the individual

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<sup>57</sup> An exception to this is any looked after children who are unable to vote for another reason - for instance because they are a non-EU and non-commonwealth citizens, or are in prison.

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reaches the age of 18. For electoral purposes the individual will be treated in the same way as other UK nationals living in another country.

#### 4.3.9. Proxy voting

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**171.** Under certain circumstances an individual may make an application to allow an individual to act as their proxy i.e. vote on their behalf.

**172.** The Bill includes provisions to allow 16- and 17-year olds to act as a proxy, reflecting that if 16- and 17-year olds are enfranchised to vote, logically they should be able to act as a proxy.

#### 4.3.10. Definition of qualifying Commonwealth citizens

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**173.** There are different legal definitions of “qualifying Commonwealth citizens” within legislation on elections. The *RPA 1983* provides the following definition for the purpose of voting in elections to the House of Commons:

“qualifying Commonwealth citizen” means a Commonwealth citizen who either–

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

(b) 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; (section 4(6) of the Act)<sup>58</sup>

**174.** The *Electoral Administration Act 2006* provides the following definition for the purpose of being a candidate for the House of Commons (which also applies to Assembly elections):

“...a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either–

(a) is not a person who requires leave under the Immigration Act 1971 (c. 77) to enter or remain in the United Kingdom, or

(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.”<sup>59</sup>

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<sup>58</sup> Representation of the People Act 1983, section 4(6)

<sup>59</sup> Electoral Administration Act 2006, section 18

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**175.** The *National Assembly for Wales (Representation of the People) Order 2007* adopted the latter, more restrictive of those two definitions of a qualifying Commonwealth citizen for the purpose of voting in Assembly elections. The *Senedd and Elections (Wales) Bill* amends the *2007 Order* to reflect the less restrictive definition of qualifying Commonwealth citizens included in the *RPA 1983*. This will have the effect of allowing all Commonwealth citizens who have leave to remain in the UK to vote in Assembly elections, regardless of the period of their leave to remain.

#### 4.3.11. Implementation

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**176.** All of provisions in the Bill relating to the franchise for Assembly elections will commence on Royal Assent of the Bill. However, the Bill specifies that they will 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.

### 4.4. Disqualification from being an Assembly Member

#### 4.4.1. Background and policy context

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**177.** Since the National Assembly for Wales was established in 1999 certain persons have been disqualified from being an Assembly Member on the basis of their personal circumstances, for example as a result of them holding particular offices or because they have committed certain crimes. Provisions to disqualify certain persons from being an Assembly Member were included in the *GOWA 1998* that established the Assembly.

**178.** The *GOWA 2006* repealed the provisions in the *GOWA 1998* and includes new provisions relating to disqualification from membership of the Assembly within sections 16 to 19. Provisions relating to disqualification are also included in the *National Assembly for Wales (Representation of the People) Order 2007* (the *2007 Order*) and the *National Assembly for Wales (Disqualification) Order 2015*.

**179.** In 2011, two Members elected to the National Assembly for Wales were found to be disqualified as it emerged that they were members of public bodies to which serving Members were not permitted to belong. These events opened up a debate about the rules relating to disqualification. In 2014 the First Minister asked the National Assembly's Constitutional and Legislative Affairs Committee (the Committee) to carry out an inquiry into the rules concerning disqualification.

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**180.** The Committee's report<sup>60</sup> included 21 recommendations for change. Some of the recommendations proposed changes to the law on disqualification, including provisions in the *GOWA 2006* and the *2007 Order*. The recommendations also related to the next *National Assembly for Wales (Disqualification) Order* to be made by the Welsh Ministers (subsequently made in 2015). At the time the Constitutional and Legislative Affairs Committee's report was published it was not within the legislative competence of the Assembly to make changes to many of the relevant provisions. Accordingly, the Committee's recommendations were aimed mainly at the UK Government. In accordance with powers provided to the Assembly by the *WA 2017*, it is now within the Assembly's competence to make changes recommended by the Committee to the law on disqualification.

**181.** In January 2018, the Assembly Commission decided to consult on changes to its electoral and operational arrangements including the changes to the law relating to disqualification recommended by the Constitutional and Legislative Affairs Committee. Of the 510 responses received on this issue:

- 34 per cent (180) agreed that legislation to reform the Assembly's electoral arrangements should include provision to implement the committee's recommendations;
- 13 per cent (70) of responses disagreed; and<sup>61</sup>
- the remaining responses did not firmly agree or disagree with the question asked.

**182.** Subsequently, the Commission decided that the *Senedd and Elections (Wales) Bill* would include provisions to implement the relevant committee recommendations on disqualification (i.e. those pertaining to changing the law).

**183.** An analysis of disqualification practices in other UK legislatures and the Dáil Éireann is summarised at Annex 6.

#### 4.4.2. Why legislation is needed

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**184.** The Committee's recommendations can only be implemented by changes to the law on disqualification. The *WA 2017* provides the Assembly with legislative

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<sup>60</sup> Constitutional and Legislative Affairs Committee (Fourth Assembly), *Inquiry into the Disqualification from Membership of the National Assembly for Wales*, July 2014

<sup>61</sup> National Assembly for Wales Commission, *Creating a Parliament for Wales: Consultation report, October 2018*, p.59

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competence to make the changes to the law on disqualification recommended by the committee.

**185.** Specifically, the changes are to:

- change the point at which most disqualifications from membership of the Assembly take effect from nomination as a candidate, to the point at which Members returned in an Assembly election take the oath or make the affirmation of allegiance;
- set out all disqualifications from membership of the Assembly in full in legislation;
- establish a more coherent legislative framework on disqualification;
- change the way in which legislation deals with the disqualification of the Auditor General and Public Services Ombudsman for Wales, in order that they are treated on the same basis as other publicly appointed offices in Wales;
- disqualify all Lord-lieutenants, Lieutenants or High Sheriffs for areas of Wales from membership of the Assembly; and
- disqualify Members of the House of Lords from membership of the Assembly.

**186.** The effect of each of these changes is considered in turn in the sub-chapters below.

#### **4.4.2.1. Change the point at which most disqualifications from membership of the Assembly take effect from nomination as a candidate, to the point at which Members returned in an Assembly election take the oath or affirmation of allegiance**

**187.** Currently, the *GOWA 2006* sets out disqualifications from membership of the Assembly (i.e. prohibitions from taking up a seat in the Assembly). However, *the 2007 Order* pre-empts the provisions in the *GOWA 2006* by requiring candidates for election to the Assembly to declare when accepting nomination for candidature that they are aware of the *GOWA 2006* provisions relating to disqualification, and that they are not disqualified from membership of the Assembly. A person who fails to declare they are not disqualified would not be considered a valid nominee for candidature and could not therefore stand for election. *The 2007 Order* effectively prohibits a disqualified person from **standing**

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for election to the Assembly, whilst the disqualifications in the *GOWA 2006* are prohibitions from **servicing** in the Assembly.

**188.** If the provisions in the *2007 Order* did not exist, a person could stand for election to the Assembly, be elected, and then resign from a job that disqualifies them from being an Assembly Member before taking their oath or making the affirmation of allegiance. The Committee identified this would benefit democracy in Wales as more people would be willing to stand for election to the Assembly because they would not have to suffer the risk of unemployment if they were not elected.

**189.** In order to give effect to the Committee's recommendation, the Bill establishes two distinct categories of disqualifications and provides that:

- one takes effect on nomination (i.e. disqualifications from standing for election to the Assembly);
- the other takes effect on taking the oath or affirmation of allegiance (i.e. disqualifications from being an Assembly Member).

**190.** As recommended by the Committee, most disqualifications will fall within the latter category, with a limited number of disqualifications applying on nomination where being a candidate would give rise to a conflict of interest or appear to undermine impartiality. As identified by the Committee, the legislative interventions outlined above will enable a person who holds a disqualifying post or office to stand for election to the Assembly without having to give up their employment, except those limited number of posts or offices that will continue to disqualify a person from standing for election, thus enabling more people to stand for election to the Assembly.

**191.** The Bill amends the *2007 Order* by replacing the requirement on candidates in Assembly election to declare they are not disqualified from membership of the Assembly with a requirement to declare they are not disqualified from standing for election. This will ensure the *2007 Order* does not continue to undermine the *GOWA 2006* provisions on disqualification as identified by the Committee.

#### **4.4.2.2. Set out all disqualifications from membership of the Assembly in full in legislation**

**192.** Currently, some disqualifications are set out in section 16 of the *GOWA 2006* by reference to other legislation. For example, section 16(2) of the *GOWA 2006* disqualifies from membership of the Assembly any person who is disqualified from membership of the House of Commons by virtue of the *House of Commons*

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*Disqualification Act 1975*. Section 16(2) of the *GOWA 2006* does not specify who those persons are.

**193.** The Committee recommended that all disqualifications in the *GOWA 2006* are set out in full rather than by reference to other legislation, in order to provide clarity for potential candidates and their agents.

**194.** The Bill gives effect to this recommendation by setting out in full all disqualifications, including those that originate in other legislation. This will provide greater clarity (for candidates, those that provide advice to candidates, and the wider public) on all disqualifications from membership of the Assembly, thereby reducing the risk of a lack of awareness of disqualifications amongst those required to be familiar with them.

#### **4.4.2.3. Establish a more coherent legislative framework on disqualification**

**195.** Currently the disqualifications set out in section 16 of the *GOWA 2006* include the holding of some offices or posts and also disqualifications based on an individual's personal circumstances (e.g. bankruptcy). Other disqualifying posts and offices are set out in disqualification orders made by the Welsh Ministers prior to Assembly elections.

**196.** The Committee recommended changes to this legislative framework. It recommended disqualifying posts or offices should be set out in disqualification orders, split into two categories based on the point at which the disqualifications take effect (i.e. category 1 disqualifications taking effect on nomination as a candidate, and category 2 taking effect on taking the oath or making the affirmation of allegiance). The *Senedd and Elections (Wales) Bill* will broadly follow the framework recommended by the Committee, with the exception that the holding of posts and offices that prohibit a person from standing for election (i.e. those identified as category 1 disqualifications by the committee) will be set out in a new disqualification schedule to the *GOWA 2006* rather than in disqualification orders. New provisions will be inserted into section 16 of the *GOWA 2006* making reference to the new schedule.

**197.** The disqualification order-making power in section 16 of the *GOWA 2006* will be retained, enabling the Welsh Ministers to make disqualification orders prior to Assembly elections setting out posts and offices the holders of which will be allowed to stand for election but not serve in the Assembly (i.e. category 2 disqualifications according to the Committee's report). This framework makes a clearer distinction between disqualifying offices based on the point at which they take effect, a distinction which candidates and others will need to understand. It is

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also believed that listing those disqualifying offices which take effect at the point of nomination on the face of primary legislation (i.e. in the new schedule), will highlight their significance for people who may be considering standing for election.

**198.** Some offices currently set out in the *National Assembly for Wales (Disqualification) Order 2015 (2015 Order)* will be included in the new schedule to the Bill as disqualifications from standing for election to the Assembly. They include, for example, the Children’s Commissioner for Wales, the Future Generations Commissioner for Wales and the Welsh Language Commissioner. In order to provide absolute clarity on the point at which such disqualifications take effect, the Bill removes references to them from the *2015 Order*.

#### **4.4.2.4. Change the way in which legislation deals with the disqualification of the Auditor General and Public Services Ombudsman for Wales, in order that they are treated on the same basis as other publicly appointed offices in Wales**

**199.** Currently the holding of the offices of the Auditor General for Wales and the Public Services Ombudsman for Wales are disqualifications set out in section 16 of the *GOWA 2006*. The Committee recommended references to these two offices should be removed from section 16 of the *GOWA 2006* and included in a disqualification order alongside other public offices the holding of which would disqualify a person from standing for election to the Assembly.

**200.** The Bill gives effect to this recommendation. In accordance with the new legislative framework on disqualification set out above, references to these two offices will be included in a new schedule to the *GOWA 2006* which lists all posts and offices the holding of which will disqualify a person from standing for election.

#### **4.4.2.5. Disqualify Lord-lieutenants, Lieutenants or High Sheriffs from membership of the Assembly**

**201.** Currently the *GOWA 2006* provides that a person who holds office as Lord-Lieutenant, Lieutenant or High Sheriff of any area in Wales is disqualified from representing a constituency or region wholly or partly included in that area. In accordance with the Committee’s recommendations, the Bill makes changes to the *GOWA 2006* in order to ensure that a person who holds office as Lord-Lieutenant, Lieutenant or High Sheriff is disqualified from representing any constituency or region in the Assembly. The holding of the office of Lord-Lieutenant, Lieutenant or High Sheriff is a disqualification from membership of the Assembly due to the conflict of interest in holding such an office whilst also

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serving as an Assembly Member. This conflict of interest could arise regardless of the area represented by the Lieutenant, Lieutenant or High Sheriff within the Assembly. The disqualification of Lord-Lieutenants, Lieutenants and High Sheriffs will take effect on nomination for candidacy in an Assembly election. These are appointments by the monarchy, not offices of employment that can be relinquished in order to serve in the Assembly. Therefore, it is appropriate that the disqualification takes effect on nomination.

#### **4.4.2.6. Disqualification of Members of the House of Lords**

**202.** Currently there are no legal restrictions on being a member of the House of Lords and an Assembly Member at the same time. In accordance with recommendations made by the Committee, the Bill disqualifies members of the House of Lords from serving in the Assembly. The Committee made this recommendation on the basis that scrutinising policy which potentially could cover the same area within both the Assembly and House of Lords could give rise to a conflict of interest.

**203.** This disqualification will take effect from the point at which a member of the House of Lords elected to the Assembly takes the oath or affirmation in the Assembly as it is from this point onwards that the conflict of interest of concern to the Committee could potentially arise.

**204.** The Bill provides an exemption from this disqualification for members of the House of Lords who have obtained leave of absence from the House. This will apply to peers who have applied for leave of absence from the House of Lords and provided a copy of that application to the Clerk of the Assembly. There is no substantive reason not to allow members of the House of Lords to serve in the Assembly during a period of leave of absence from the House of Lords and to do so could be deemed an unnecessary restriction on the skills and experience available to the Assembly.

**205.** The Bill provides an eight-day grace period for members of the House of Lords who are elected to the Assembly to apply for leave of absence, before their disqualification from the Assembly takes effect. This grace period will commence on the date on which the Member is returned following an election. The process for applying for leave of absence from the House of Lords is simple and straightforward and eight days is a sufficient period to complete the application process.

**206.** The Bill also provides an eight-day grace period to apply for leave of absence for an Assembly Member ennobled during an Assembly term and who wishes to

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continue to serve in the Assembly. The Bill specifies that this eight-day period will commence from the ennobled Member's introduction to the House of Lords (i.e. the point from which the Member would be allowed to take part in the formal business of the House of Lords). The Bill also places a requirement on members of both institutions who wish to serve in the Assembly to provide the Assembly's Clerk with a copy of their application for leave of absence from the House of Lords.

**207.** The Committee stipulated that the disqualification from membership of the Assembly of members of the House of Lords should not apply to anyone currently serving both institutions, but did not propose specific transitional arrangements to accommodate this. Accordingly, the Bill specifies that its provisions on disqualification will only have effect for the purposes of an Assembly election at which the poll is held on or after 5 April 2021 (i.e. the earliest date of the next ordinary Assembly general election and onwards). This will ensure that any current Assembly Members who have been ennobled and any other Assembly Members ennobled during this current Assembly will not be affected by the provisions in the Bill during this current Assembly.

#### 4.4.3. Implementation

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**208.** All provisions on disqualification will commence on Royal Assent of the Bill, but will have effect specifically for the purposes of an Assembly election at which the poll is held on or after 5 April 2021 (i.e. the earliest date of the next ordinary Assembly general election and onwards). This will ensure that the Bill's provisions on disqualification take effect at the same time as the provisions of any disqualification order made by the Welsh Ministers in accordance with section 16(5) of the *GOWA 2006* prior to the next Assembly election.

**209.** The Bill makes consequential amendments to the *2007 Order*. Currently, rule 9(4)(c)(ii) of the *2007 Order* requires candidates in an Assembly election to declare on nomination that they are not disqualified from membership of the Assembly. The Bill replaces this requirement with a requirement on candidates to declare they are not disqualified from standing for election to the Assembly. This will ensure persons who are disqualified from membership of the Assembly but not from standing for election can proceed with candidature. They would then need to give up their disqualifying post or office only if they were successfully returned as a Member of the Assembly, in order to take up their seat.

**210.** Changes to the law on disqualification introduced by the Bill will need to be accompanied by guidance from relevant bodies. Guidance relating to disqualification from membership of the Assembly is routinely provided by the Electoral Commission. It is possible the Assembly Commission, Welsh Government

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and House of Lords may also need to provide guidance as and when required. The likely costs of such activity are accounted for in the regulatory impact assessment in this document.

#### 4.4.4. Definition of qualifying Commonwealth citizens

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**211.** Section 4.3.10 discusses different legal definitions of qualifying Commonwealth citizens in respect of the right to vote. For the purposes of provisions in the Bill relating to disqualification from membership of the Assembly, the more restrictive definition of qualifying Commonwealth citizens in the *Electoral Administration Act 2006* is applied (see Part 1 of Schedule 2 of the Bill). This will mean that qualifying Commonwealth citizens will only be allowed to become Assembly Members if they have indefinite leave to remain in the UK. This aims to avoid circumstances where qualifying Commonwealth citizens elected to the Assembly have to vacate their seats due to an expiration of their leave to remain in the UK, which would necessitate a by-election in the case of constituency Members or the backfilling of regional seats.

### 4.5. The need for a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums

#### 4.5.1. Background and policy context

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**212.** The *WA 2017* provided for increased devolution of responsibility for the conduct and administration of Welsh devolved elections and referendums.

**213.** It may therefore be considered appropriate for the Electoral Commission, as the regulator of elections, to be funded by the Assembly for its work on Welsh devolved elections and become accountable to the Assembly for such work. The Bill addresses this issue by placing a requirement on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums with a view to making recommendations for reform of those arrangements. The Bill also requires that the Electoral Commission must respond to any recommendations relevant to it by laying a report before the Senedd.

#### 4.5.2. Why legislation is needed

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**214.** It can be argued that it would be incongruous for the Assembly to have significant and increased responsibility for devolved Welsh elections without also having a role in determining how the regulation of those elections is undertaken.

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**215.** As the Assembly is now able to legislate on how Welsh devolved elections should be conducted, it may wish to consider the extent to which arrangements for conducting those elections take account of Wales’ specific social, economic and cultural context.

**216.** The way in which elections are regulated is key to the effective implementation of any changes the Assembly may wish to make to the way in which elections are conducted. Accordingly, the *WA 2017* provides the Assembly with competence to legislate on the financing and accountability arrangements of the Electoral Commission, as well as on elections themselves. As set out in chapter 2 of this Explanatory Memorandum, the *WA 2017* allows the Assembly to legislate on the functions of certain reserved authorities,<sup>62</sup> in the context of devolved areas, without the need for ministerial consent.

**217.** The various elections that take place in Wales differ in terms of their franchises and electoral systems. For example, the *Senedd and Elections (Wales) Bill* will lead to 16- and 17-year olds being allowed to vote in Assembly elections but not UK Parliament elections. It is therefore appropriate that the financial and oversight arrangements for the work of the Electoral Commission are reviewed in a devolved context.

**218.** However, the Assembly currently has limited leverage to review or change how Welsh devolved elections are regulated. The Electoral Commission is funded by and accountable to the UK Parliament.

**219.** The devolution of significant responsibilities and powers relating to Welsh devolved elections requires a new relationship between the Assembly and the regulator of those elections, to ensure elections are conducted and regulated in accordance with distinct Welsh priorities.

**220.** In order to ensure this matter is progressed and that clarity is sought on how the Electoral Commission will interact with the Assembly in future, the Bill imposes a duty on the Assembly to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to Welsh elections and devolved referendums. The consideration of such arrangements by the Assembly would provide opportunities to consider key issues such as:

- the cost of regulating Welsh devolved elections and referendums;

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<sup>62</sup> “Reserved Authorities” are defined in the *WA 2017* (Schedule 2, section 8(3)) as Minister of the Crown or government departments or any other public authority apart from a devolved Welsh authority. “Devolved Welsh Authorities” are defined in section 4 of the *WA 2017*.

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- the funding of such costs by the Assembly;
  - how the funds required to cover such costs would be transferred from Westminster to the Assembly;
  - the arrangements by which the Assembly would hold the Electoral Commission to account for its work on devolved Welsh elections; and
  - how such scrutiny arrangements would work alongside scrutiny of the Electoral Commission by the UK Parliament.

**221.** Such work could provide an opportunity for further dialogue with stakeholders on how new arrangements could work in practice.

**222.** It could be argued that the Assembly could choose to consider the financial and oversight arrangements for the work of the Electoral Commission without being required to do so by legislation. Committees of previous Assemblies have previously examined matters relating to elections, at a time when responsibilities for elections had not been devolved to Wales. However, the devolution of such responsibilities requires a new relationship to be forged between the Assembly and the Electoral Commission and it is considered appropriate to legislate to instigate that process.

**223.** The Bill does not stipulate how the Assembly should consider the financial and oversight arrangements for the work of the Electoral Commission. Whilst it is considered appropriate that the Bill requires the Assembly to consider how the Electoral Commission's functions should operate in relation to Wales, it is not considered appropriate to dictate how this exercise should be carried out. Rather the Bill specifies that the Senedd may make provision within its Standing Orders on how the duty should be carried out. The Bill provides that any such provisions made within the Standing Orders can delegate functions to the Presiding Officer, a committee or sub-committee of the Assembly.

**224.** The Bill does not place any requirements or constraints on the frequency with which the Assembly should consider the financial and oversight arrangements for the work of the Electoral Commission. The frequency with which this duty will need to be exercised may depend on electoral events in Wales, ordinary and extraordinary, and on any identified need to change the Electoral Commission's arrangements in light of their regulation of such events. The purpose of including the duty in the Bill is to ensure it is exercised, not how often it is exercised.

**225.** The Bill also requires the Electoral Commission to respond to any recommendations made to it, following the Assembly's consideration of the

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Electoral Commission's financial and oversight arrangements. It is not anticipated that the Electoral Commission will have to respond to recommendations made by the Assembly with such regularity that could result in unreasonable resource implications on the Electoral Commission. For clarity, the Bill only requires the Electoral Commission to respond to such recommendations; it does not require the Electoral Commission to necessarily accept and implement such recommendations.

**226.** As previously noted, the Bill does not specify the frequency with which the Assembly should consider the financial and oversight arrangements for the work of the Electoral Commission, which by association would determine the frequency by which the Electoral Commission may be required to respond to recommendations. However, it is not anticipated that the regularity with which the Electoral Commission would have to respond to recommendations would be onerous, particular as the Electoral Commission already has experience of reporting to the UK Parliament.

**227.** The risk of either the Assembly or the Electoral Commission not complying with the duties placed on them by the Bill is considered to be extremely low.

#### 4.5.3. Implementation

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**228.** Section 27 of the Bill which imposes a duty on the Assembly to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to Welsh elections, and requires the EC to respond to recommendations made by the Assembly, will commence on Royal Assent of the Bill.

## 4.6. Implementation of Law Commission recommendations for rationalisation of electoral law

### 4.6.1. Background and policy context

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**229.** The electoral law reform project originated in the Law Commission for England and Wales' Eleventh Programme of Law Reform.<sup>63</sup> Its scope, determined in 2012, extends to electoral administration law, offences and legal challenges. It excludes reform of the franchise, voting systems, electoral boundaries, national campaign, political parties, and broadcast regulation, and fundamental change to institutions.

**230.** In December 2014 the Law Commission launched a consultation on proposals for electoral law reform. It engaged with stakeholders including the

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<sup>63</sup> Law Commission of England and Wales, [Electoral law reform project](#)

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Welsh Government and attended events to discuss its proposals. 74 responses were received from a range of consultees including electoral administrators, academics, political parties and third sector organisations.

**231.** Following this consultation the Law Commission published an interim report in February 2016 outlining its proposals for reform of electoral law.<sup>64</sup> The recommendations set out in the interim report are aimed at simplifying the administrative arrangements relating to elections and standardising those arrangements across the four parts of the UK (unless there is good reason for taking a different approach, for example in relation to language provisions in Wales or because of differing electoral systems). This may be summarised by the following:

**Recommendation 2-1:** The current laws governing elections should be rationalised into a single, consistent legislative framework governing all elections (enacted in accordance with the UK legislatures' legislative competences).

**Recommendation 2-2:** Electoral laws should be consistent across elections, subject to differentiation due to the voting system or some other justifiable principle or policy.

**232.** The UK Government has not, to date, formally responded to the report. The Law Commission's website states:

"After reviewing our interim report, the UK Government stated in late 2016 that work on leaving the European Union, and the attendant unprecedented demand on parliamentary time, means there will not be capacity for an electoral bill to take forward recommendations.

However, we continue to work with the Cabinet Office on ways of implementing our recommendations which do not require primary legislation."<sup>65</sup>

**233.** This leaves open the possibility that the Law Commission could publish a revised, final report in due course, as originally intended, including revised recommendations.

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<sup>64</sup> Law Commission of English and Wales, Scottish Law Commission and Northern Ireland Law Commission, [Electoral law: an interim report](#), February 2016

<sup>65</sup> Law Commission of England and Wales, [www.lawcom.gov.uk/project/electoral-law](http://www.lawcom.gov.uk/project/electoral-law) [Accessed on 29/01/2018]

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#### 4.6.2. Why legislation is needed

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**234.** Specific areas covered by the detailed recommendations proposed by the Law Commission include:

- the powers of acting returning officers;
- the functions, duties and powers of direction of regional returning officers at elections managed by more than one returning officer;
- the designation and review of polling districts;
- the manner of voting;
- absent voting;
- notice of election and nomination;
- polling places;
- counts;
- timetables and combination of elections;
- electoral offences;
- regulation of campaign expenditure; and
- electoral challenge.

**235.** These areas are important, and the Assembly may wish to consider in due course whether the recommendations on electoral law reform proposed by the Law Commission should be implemented in relation to devolved elections in Wales. The Bill therefore amends section 13 of the *GOWA 2006* to enable the Welsh Ministers to make such subordinate legislation as is required to ensure that elections in Wales are administered in a way that gives effect to changes to electoral law recommended by the Law Commission.

**236.** It is anticipated that Assembly Members would wish to be able to consider legislative changes to electoral law based on:

- the interim recommendations published by the Law Commission in 2016;
- any further iteration of that set of recommendations; and also

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- any further proposals relating to electoral law made by the Law Commission in future.

**237.** For this reason, the enabling power in the Bill is not limited to making subordinate legislation to give effect only to the interim set of recommendations made by the Law Commission in 2016.

**238.** Subordinate legislation made under this new power may involve the amendment of primary legislation. For this reason, the provision has been drafted so as to ensure that the power may only be used to give effect to recommendations made by the Law Commission in relation to the rationalisation of electoral law.

**239.** In addition, the subordinate legislation-making power will be subject to the affirmative procedure (i.e. no subordinate legislation can be made using this power unless a draft of the statutory instrument has been laid before the Assembly, and subsequently been approved by the Assembly in Plenary). The affirmative procedure is considered appropriate, as the Law Commission recommendations to which the subordinate legislation will be able to give effect:

- will be administrative in nature;
- will have been recommended by an independent, expert commission;
- will have been subject to consultation by the Law Commissions during their development, including by publication in the interim report.

**240.** Consideration was given to the possibility that the powers granted to the Welsh Ministers by section 13 of the *GOWA 2006*, as amended by the *WA 2017*, are already sufficiently broad to enable the Law Commission recommendations to be implemented in relation to Assembly elections without the granting of a specific additional power. Nevertheless, it is considered appropriate to include such a power because:

- it highlights the importance of the Law Commission's work to the arrangements for Assembly elections, so that the Assembly, its Members and committees give proper consideration to these recommendations;
- subsection (2) of section 13 of the *GOWA 2006* already identifies a number of specific purposes for which the power in subsection (1) may be used. It is therefore appropriate to specify the implementation of Law Commission recommendations as a specific additional purpose;

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- use of the current power in section 13 of the *GOWA 2006* is limited to the election of Assembly Members. It is therefore appropriate, to ensure that the legislative framework for all devolved elections in Wales remains coherent and robust, to specify within the Bill that the power may be used to implement Law Commission recommendations for Assembly and local government elections in Wales.

**241.** Implementation of many of the Law Commission's recommendations will depend on inter-governmental working, whereas others may be suited to being taken forward separately in Wales. For this reason, the power in the Bill may be used by Welsh Ministers at different times for different purposes.

**242.** Consideration was given to whether provisions should be included on the face of the Bill to give effect to the recommendations made by the Law Commission in their interim report. However, it is considered that these changes are more appropriate for subordinate legislation because:

- the recommendations are administrative in nature;
- many of the recommendations require collaborative working between the four governments of the UK;
- implementing the recommendations will require changes to local government elections as well as Assembly elections; and
- this will provide more flexibility to address revised or new recommendations published by the Law Commission in future.

#### 4.6.3. Implementation

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**243.** The subordinate legislation-making power, to be inserted into section 13 of the *GOWA 2006*, will be commenced on Royal Assent of the Bill. The Bill makes changes to electoral law that take effect at various points up to the next Assembly general election, including other changes to the *GOWA 2006*. For example, provisions in the Bill to change the franchise for Assembly elections commence on Royal Assent. Commencing the legislation-making power on Royal Assent to the Bill provides flexibility for the Welsh Ministers to legislate to give effect to the Law Commission's recommendations either prior to, at the same time or after changes to electoral law made by this Bill come into force.

**244.** The use of the subordinate legislation-making power to implement Law Commission recommendations, and the timing of any such use, is a matter for the Welsh Ministers. Any subordinate legislation introduced will be subject to the

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usual requirements for the preparation of impact assessments and explanatory memoranda, as well as to scrutiny by the Assembly and its committees.

## 4.7. Date of the first meeting of the Assembly

### 4.7.1. Background and policy context

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**245.** In the early days of an Assembly, Members must meet in Plenary to agree a number of key items of business.<sup>66</sup> This includes the election of the Llywydd (Presiding Officer) and Deputy and nominations for a First Minister. Standing Order 12.7 provides that it is for the incumbent Llywydd, in consultation with political groups, to determine the date and time of the first meeting. If the incumbent Llywydd is either unwilling or unable to act, the date and time are specified by the Clerk of the Assembly. In either case, Standing Order 12.9 provides that the Clerk must notify all Members of the time and date at least 24 hours before the meeting. In practice, this is done:

- directly by email to Members;
- through the political groups;
- by placing notices on the intranet; and
- by publishing the agenda publicly on the internet.

**246.** The *GOWA 2006* provides that this first meeting must take place within a period of seven days following an ordinary or extraordinary general election. At that first meeting the Assembly must elect one of its Members as Llywydd and one as Deputy Presiding Officer. Section 25(7)(a) of the *GOWA 2006* provides that the Llywydd and Deputy Presiding Officer may not belong to the same political group. Section 25(7)(b) provides that they may not both belong to political groups with an executive role (defined by section 25(8) as a political group to which the First Minister or one or more of the Welsh Ministers appointed under section 48 belong). Section 25(9) provides the Assembly may resolve by a two-thirds majority to disregard the requirements of section 25(7) should it consider it appropriate to do so.

**247.** The Assembly's Standing Orders (SOs) put in place further criteria as to the political groups to which the Llywydd and Deputy Presiding Officer belong:

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<sup>66</sup> For more information, see National Assembly for Wales, [Guide to early Plenary business after the May 2016 election](#), May 2016.

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- SOs 6.12(i) and (ii) repeat the provisions in section 25(7) of the *GOWA 2006*;
  - SO 6.12(iii) provides that the Llywydd and Deputy Presiding Officer may not both belong to political groups that do not have executive roles;
  - SO 6.13 echoes section 25(9) of the *GOWA 2006*, ensuring that the Assembly may, by a two-thirds majority, disapply the additional criteria applied by SO 6.12(iii);
  - SO 6.14 provides that, should circumstances change after the Llywydd and Deputy Presiding Officer have been elected, with the result that they represent:
    - i. the same political group;
    - i. different political groups both of which have an executive role;  
or
    - ii. different political groups both of which do not have an executive role

then if neither the Llywydd or Deputy Presiding Officer resign, a Member may propose at the next Plenary meeting that the criteria be disappplied. If no motion is tabled, or it is not agreed, then SO 16.14 requires that both must resign.

**248.** In practice, when read together, sections 25(7), (8) and (9) of the *GOWA 2006* and SOs 6.12-14 mean that, unless the Assembly resolves to disapply the criteria at the relevant point (either at the start of an Assembly or during an Assembly term if circumstances change):

- the Llywydd and Deputy Presiding Officer must belong to different political groups;
- one of them must belong to a political group which has an executive role; and
- the other must belong to a political group which does not have an executive role.

**249.** A summary of other legislatures' requirements on the maximum time for a first meeting is detailed in Annex 7.

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#### 4.7.2. Why legislation is needed

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**250.** The election of the Llywydd and Deputy Presiding Officer constitutes the first items of business conducted by the Assembly after an election (whether ordinary or extraordinary).

**251.** Section 47 of the *GOWA 2006* requires the Assembly to nominate a First Minister within 28 days of an ordinary or extraordinary election. It may not, therefore, be clear at the point at which the Assembly must elect a Llywydd and Deputy Presiding Officer which political groups will have, or will not have, executive roles in the new Assembly term. This may be particularly the case if the result of the election was not conclusive, a circumstance which may be considered more likely with a semi-proportional electoral system.

**252.** While it is important that the Assembly meets and elects the Llywydd and Deputy Presiding Officer without undue delay after an Assembly election, the current requirement for the Assembly to meet within seven days is unduly restrictive and limits the time available for political discussions and negotiations on the forming of an executive to take place. Eligibility for the offices of Llywydd and Deputy Presiding Officer is contingent on the outcomes of such political negotiations. The outcome of political discussions about the executive may therefore also be a factor in some Members' decisions about whether to put themselves forward to be elected as Llywydd or Deputy Presiding Officer, or their decisions about who to support for election to the offices. It is therefore appropriate that the period within which the first meeting should take place should be extended to 14 days.

**253.** While the Scottish Parliament must meet within seven days, the purpose of this is to allow the taking of oaths/making of affirmations by Members – a process that forms part of the formal proceedings of the Scottish Parliament, and that may take place before the Scottish Parliament elects a Presiding Officer. The Scottish Parliament has up to 14 days to elect a Presiding Officer and two Deputy Presiding Officers. The taking of oaths/making of affirmations does not form part of the formal proceedings of the Assembly, and may take place at returned Members' convenience from the day after the election onwards. There is, therefore, no ongoing requirement for a meeting within seven days in Wales as there is in Scotland.

**254.** The extension in the deadline from 7 to 14 days does not prevent the Assembly from meeting sooner than the 14-day deadline if it wishes to do so. The provisions in the Bill simply provide greater flexibility over the deadline by which the Assembly must have met.

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**255.** Extending the period requires amendment to the relevant sections in the *GOWA 2006*.

### 4.7.3. Implementation

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**256.** Provisions in the Bill to extend the deadline for the first meeting of the Assembly after an election will commence on the day of the first Assembly election at which the poll is held on or after 5 April 2021.

**257.** Internal and published guidance will be updated on Royal Assent to ensure they reflect the updated legal framework.

## 4.8. Powers of the Assembly Commission

### 4.8.1. Background and policy context

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**258.** Schedule 2 of the *GOWA 2006* makes provision in relation to the Assembly Commission's powers to charge for goods and services, whether or not those goods and services are in connection with the discharge of its functions. The power to charge for goods and services in connection with the discharge of functions (paragraph 4(2)(b)) is unambiguous.

**259.** Paragraph 4(4) of the *GOWA 2006* makes provision in relation to the Assembly Commission's powers to charge for goods and services that are not in connection with the discharge of its functions. This power, for example, allows the Commission to sell goods in the Assembly shop. However, the drafting of the provisions in the legislation is ambiguous, as the provisions refer to the sale of goods and the provision of services. It is therefore uncertain as to whether the Commission could currently choose to charge for use of the Assembly estate for events not related to Assembly business or the Commission's functions.

**260.** The Bill resolves this ambiguity by clarifying that the Commission may also charge for services that are not provided in connection with the discharge of its functions. The Commission currently has no plans to charge for the provision of such services.

**261.** The *GOWA 2006* further provides that any monies received by the Assembly Commission, for example as a result of the sale of goods, must be paid into the Welsh Consolidated Fund. Such monies may only be retained by the Assembly Commission if authorised by a budget resolution of the Assembly. This requirement would continue to apply in relation to any monies received for services not in connection with the discharge of its functions for which the Commission charged.

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#### 4.8.2. Practice elsewhere

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**262.** The provisions in paragraph 4 of Schedule 2 of the *GOWA 2006* in relation to charging for goods and services mirror those in the relevant legislation establishing the Scottish Parliamentary Corporate Body and the Northern Ireland Assembly Commission.

**263.** In Northern Ireland, the provisions are interpreted such that the Northern Ireland Assembly Commission may charge for the provision of services not in connection with the discharge of its functions.

#### 4.8.3. Why legislation is needed

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**264.** Clarifying the provisions in paragraph 4(4) of Schedule 2 of the *GOWA 2006* requires legislative amendment. Doing so would put beyond doubt the Commission's power to charge for the provision of services. While the Commission has no plans currently to charge for services delivered other than in connection with its functions, clarifying the legislation to remove the ambiguity reduces the potential for any future legal challenge.

#### 4.8.4. Implementation

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**265.** The provisions in the Bill are clarifying provisions, intended to remove the current ambiguity in the legislative framework, which sets out the powers and functions of the Commission. The provisions will take effect on Royal Assent. The Commission currently has no plans to make use of the clarification of its powers.

**266.** Any plans that are developed in relation to the sale of services other than in connection with the Commission's functions will clearly identify objectives and implementation plans.

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## 5. Consultation

### 5.1. Votes@16? consultation (November 2014 to June 2016)

#### 5.1.1. Consultation background

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**267.** In July 2014, leaders of the four political parties represented in the Assembly and the then Presiding Officer, Dame Rosemary Butler AM, signed a Youth Engagement Charter. The Charter committed the Assembly to reach out and ensure that young people in Wales were able to discover information about the Assembly and its work and decide how it is relevant to their interests. It also committed the Assembly to enable debate through fun and tailored activities, and to feed back effectively to young people on how their contributions made a difference.

#### 5.1.2. Consultation approach

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**268.** In November 2014, the then Presiding Officer announced a consultation with young people in Wales on whether 16- and 17-year olds should be able to vote. The consultation ran from November 2014 to June 2015, and its findings were debated at a conference for young people, held at the Senedd in July 2015.

**269.** The consultation comprised of a survey, which could be completed online or in hard copy. The majority of the questionnaires were completed by secondary school age young people as part of the Assembly's education and youth engagement provision in schools and colleges, as well as with youth groups meeting in non-formal educational settings and during "Votes@16?" events. All young people visiting the Senedd also had the opportunity to debate the key themes of the survey and debate the issues around lowering the voting age. Online resources and videos to promote debate were also shared online to encourage debate at youth clubs and educational centres across Wales.

**270.** The "Votes@16?" events included a youth led workshop with the then Presiding Officer, held during a week of activities in Wrexham in March; a two-day conference for A-level politics students at the Assembly's dedicated education centre Siambr Hywel, and an Assembly bus tour which visited the five electoral regions in Wales. Locations included: Monmouth, Abergavenny Youth and Education Centre, Dŵr-y-Felin Comprehensive School, Tasker Milward VC School, Glyndŵr University in Wrexham and the Urdd Eisteddfod in Caerphilly.

**271.** The survey was promoted by Assembly Commission staff with relevant groups visiting the Senedd and Siambr Hywel, outreach visits across Wales and events

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across the country. For example, the Urdd's youth committee, BwrddSyrIfanC, completed the survey and debated votes@16 during a conference they organised at the Urdd Centre in Cardiff Bay #diamonddebate (only answers). Representatives from BwrddSyrIfanC discussed the issue with their local Assembly Member, Jeff Cuthbert AM, at the Urdd Eisteddfod in May. ITV/S4C's youth current affairs programme, Hacio, as part of its schools debates tour of Wales, debated the issue of lowering the voting age at a conference in Siambr Hywel and filmed a debate at the Senedd.

**272.** In order to promote awareness of the survey and attract participants to take part online, the Assembly's Communications team contacted a broad range of organisations working with young people, voluntary sector groups, schools, colleges and universities. The consultation was promoted on the Assembly's young people's website [www.yourassembly.org](http://www.yourassembly.org)<sup>67</sup>, as well as on social media via @yourassembly. The team also emailed groups and educational centres directly.

### 5.1.3. Consultation findings

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**273.** In total, 10,375 young people from across Wales took part in the consultation. Of these young people:

- 53 per cent were in favour of lowering the voting age;
- 29 per cent disagreed; and
- 18 per cent did not know.

**274.** Following the consultation, the Presiding Officer concluded that:

I believe this report gives me a clear mandate to inform Assembly Members that when they vote on this issue in time for the 2021 election, that it is the will of the young people of Wales to extend the voting franchise to 16-year olds.<sup>68</sup>

**275.** A detailed report setting out the consultation findings is available on the Assembly's website.<sup>69</sup> Headlines from the consultation included:

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<sup>67</sup> Your Assembly, [www.yourassembly.org](http://www.yourassembly.org)

<sup>68</sup> National Assembly for Wales, [Should the voting age be lowered to 16? Summary of responses to the Presiding Officer's "Votes@16?" consultation for 11- to 25-year olds in Wales](#), July 2015

<sup>69</sup> Ibid.

- 58 per cent said they would vote at an election tomorrow if they were eligible, 23 per cent said they would not, and 19 per cent did not know;
- 79 per cent thought it was important for young people to learn about politics and the voting system;
- 51 per cent ranked the polling station as their preferred voting method.

#### 5.1.4. Impact of the consultation on the legislative proposals

**276.** Table 2 sets out issues raised during the consultation period and associated decisions.

**Table 2 Issues raised during the consultation period and associated decisions**

| Issues raised  | Decisions   |
|--|---|
| A majority of young people who responded to the consultation supported the extension of the franchise to include 16- and 17-year olds. | Include consideration of the minimum voting age for Assembly elections in the remit of the Expert Panel on Assembly Electoral Reform. |

## 5.2. Assembly Commission consultation on the name of the Assembly (December 2016 to March 2017)

### 5.2.1. Consultation background

**277.** In March 2015, the St David’s Day announcement made by the then Secretary of State for Wales, the Rt Hon Stephen Crabb MP, included a commitment that legislative competence over its electoral and internal arrangements would be devolved to the Assembly.

**278.** The Assembly unanimously agreed in July 2016 that:

“... the National Assembly for Wales:

1. Believes that the Assembly should change its name to reflect its constitutional status as a national parliament.
2. Invites the Presiding Officer and Assembly Commission to consider the implications of such a change and how best to give it effect.”<sup>70</sup>

<sup>70</sup> National Assembly for Wales, Record of Proceedings, 5 July 2016

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### 5.2.2. Consultation approach

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**279.** The Assembly Commission consulted the public between December 2016 and March 2017 on whether the name of the Assembly should be changed, and if so, to what.

**280.** A bilingual survey was made available in hard copy, online and in an easy to read version.<sup>71</sup> Supporting documentation was published alongside the survey to explain the background to the consultation. The supporting documentation included a draft Bill. The consultation paper is available on the Assembly's website.<sup>72</sup>

**281.** In total, 2,821 survey responses were received. Of these responses:

- 80 per cent were completed online, and 20 per cent in hard copy;
- 78 per cent were completed in English, and 22 per cent in Welsh;
- 2 per cent were completed on behalf of organisations.

### 5.2.3. Consultation findings

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**282.** A summary of the consultation responses is set out below. A more detailed consultation report is available on the Assembly's website at [www.assembly.wales/name](http://www.assembly.wales/name).<sup>73</sup>

**283.** Question 1 of the survey asked respondents to agree or disagree with three statements:

- 60 per cent of respondents disagreed with the statement that "The role of the National Assembly for Wales is well understood";
- 80 per cent of respondents agreed that "The name of an institution is important to explain what it does";
- 61 per cent of respondents agreed that "The National Assembly for Wales should change its name".

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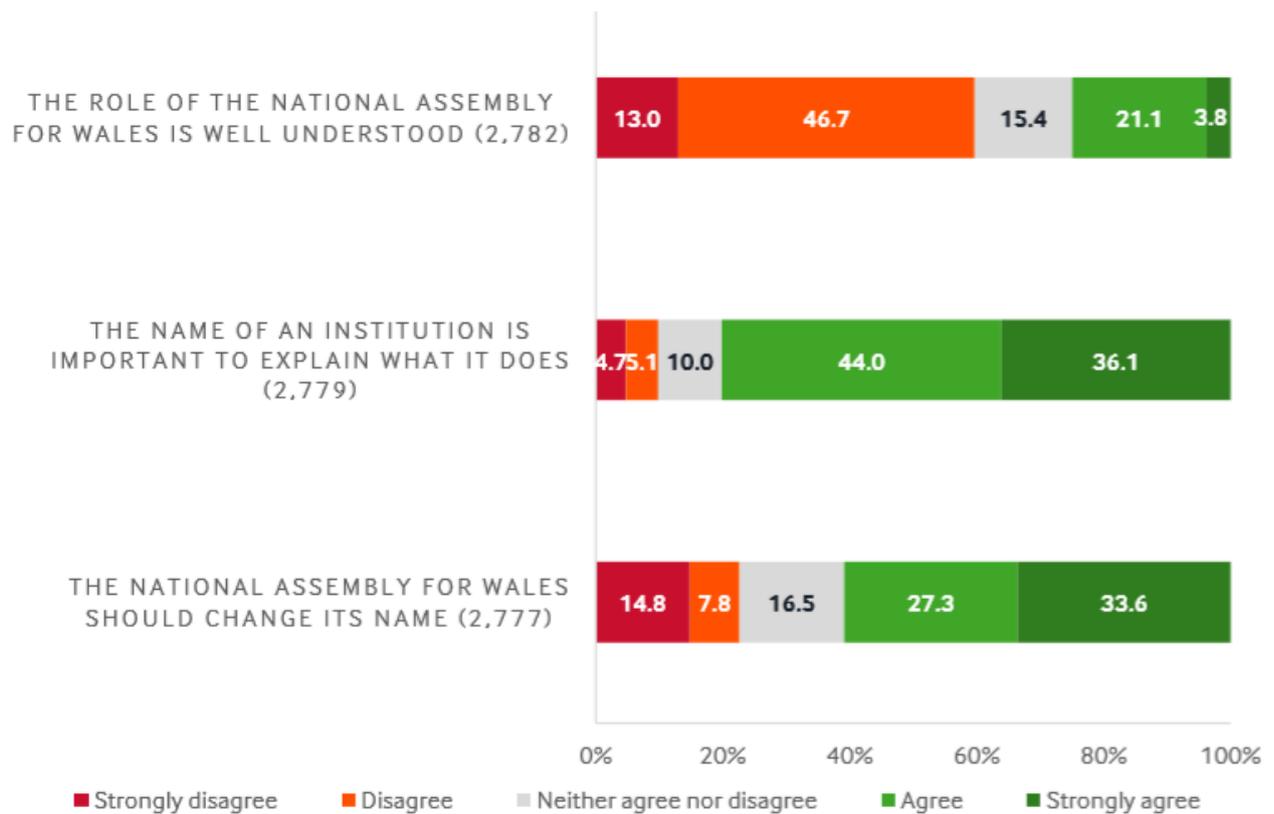
<sup>71</sup> National Assembly for Wales, [Consultation: changing the name of the National Assembly for Wales](#), December 2016

<sup>72</sup> National Assembly for Wales, [Changing the Name of the National Assembly for Wales](#), [www.assembly.wales/name](http://www.assembly.wales/name)

<sup>73</sup> National Assembly for Wales, [Changing the Name of the National Assembly for Wales](#), [www.assembly.wales/name](http://www.assembly.wales/name)

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**Figure 1 Responses to name change consultation question 1<sup>74</sup>**



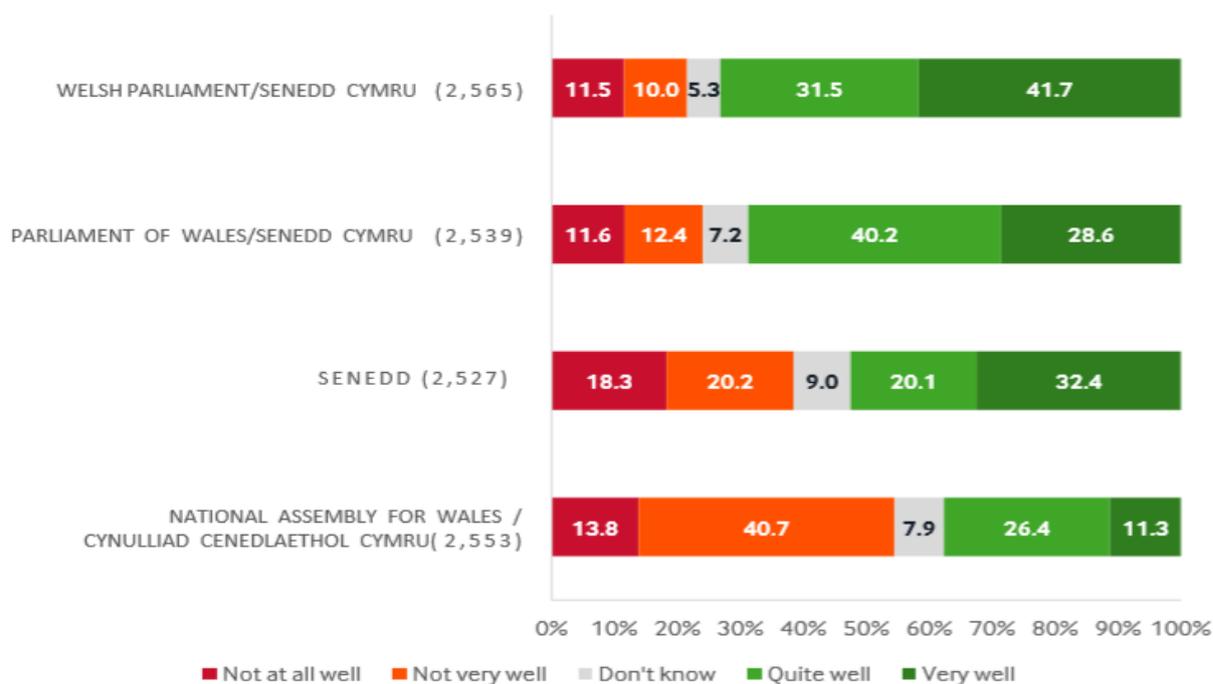
**284.** Respondents were then asked how well they felt a list of potential names described the role and responsibilities of the National Assembly for Wales:

- 73 per cent of respondents felt a bilingual name consisting of “Welsh Parliament” and “Senedd Cymru” would positively describe the role and responsibilities of the National Assembly for Wales;
- 69 per cent of respondents considered that a bilingual name consisting of “Parliament of Wales” and “Senedd Cymru” would positively describe the role and responsibilities of the National Assembly for Wales;
- 53 per cent of respondents considered that a monolingual name consisting of “Senedd” would positively describe the role and responsibilities of the National Assembly for Wales; and
- 38 per cent of respondents considered that a bilingual name consisting of “National Assembly for Wales” and “Cynulliad Cenedlaethol Cymru”

<sup>74</sup> Due to rounding, percentages may not always add up to 100 per cent. Numbers in brackets show the number of respondents to each statement.

would positively describe the role and responsibilities of the National Assembly for Wales.

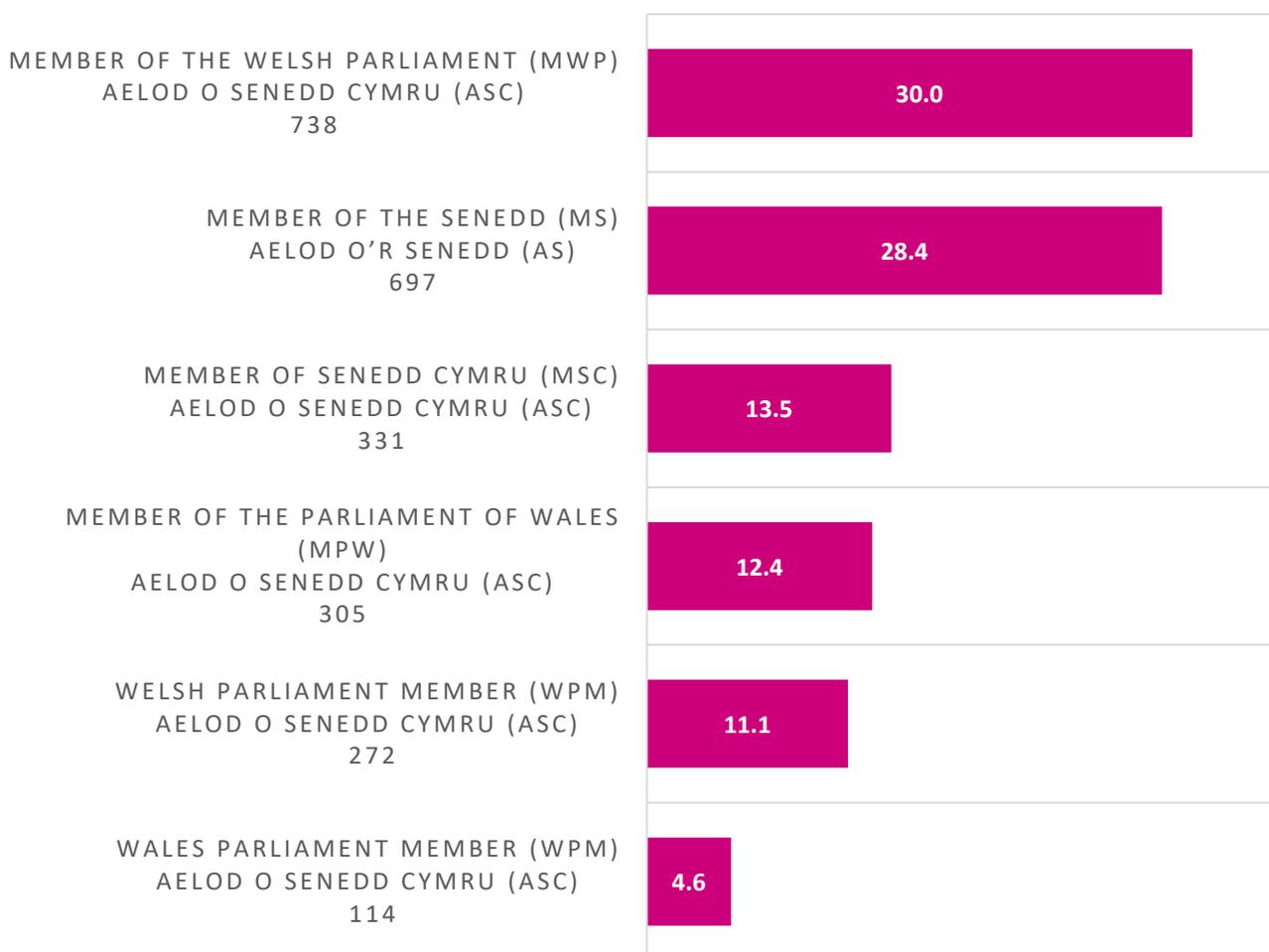
**Figure 2 Responses to name change consultation question 2<sup>75</sup>**



**285.** Finally, respondents were asked how Assembly Members should be known if the institution were to be renamed. Respondents favoured “Member of the Welsh Parliament” (30 per cent), followed by “Member of the Senedd” (28 per cent). The least favoured option was Wales Parliament Member (5 per cent).

<sup>75</sup> Due to rounding, percentages may not always add up to 100 per cent. Numbers in brackets show the number of respondents to each statement.

**Figure 3 Responses to name change consultation question 3<sup>76</sup>**



**286.** The consultation provided three opportunities for respondents to provide their own comments. The sentiment of the comments was a relatively even mix between those who supported the changes, and those who questioned whether such a change would represent value for money or suggested that more pressing issues should be prioritised.

**287.** A significant (though comparatively smaller) proportion of comments were received calling for the name to be changed to a monolingual Welsh name. The majority of these comments were provided by respondents who completed the survey in Welsh.

**288.** In addition to the survey responses, 227 email responses were received. Of these 193 were from individuals completing a pro forma on Cymdeithas yr Iaith's website calling for the institution to be renamed "Senedd", with Members

<sup>76</sup> Due to rounding, percentages may not always add up to 100 per cent. Numbers in brackets show the number of respondents to each statement.

described as “Seneddwyr/Seneddwr”. The other 34 were from a range of organisations and individuals. Dathlu’r Gymraeg, Gorwel Board and the Welsh Language Commissioner all supported the monolingual Welsh name “Senedd”. The then First Minister stated that his preference was “Welsh Parliament/Senedd Cymru”, stating that this would provide “constitutional consistency [and] enhance public understanding of its role”.

#### 5.2.4. Impact of the consultation on the legislative proposals

**289.** Table 3 sets out decisions taken as a result of the consultation.

**Table 3 Issues raised during the consultation period and associated decisions**

| Issues raised   | Decisions   |
|---|---|
| <p>Consultation indicated public support for a change in the name, and Welsh Parliament/Senedd Cymru was the option favoured by respondents to the consultation</p> | <p>Initial decision to include provision in the Bill to rename the Assembly as “Welsh Parliament/Senedd Cymru”.</p> <p>Subsequent decision to include provision in the Bill to rename the Assembly as “Senedd”. The Senedd may also be known as the Welsh Parliament.</p>   |
| <p>By a small margin, respondents favoured “Members of the Welsh Parliament (MWPs)”, however there was no clear majority in favour of any particular option.</p>    | <p>Initial decision to include provision in the Bill to describe Members as “Welsh Parliament Members (WPMs)”.</p> <p>Subsequent decision to include provision in the Bill to describe Members as “Aelodau’r Senedd (AS) / Members of the Senedd (MS)”.</p>   |
| <p>Concerns raised by respondents to the consultation about the impact on Assembly time and other priorities.</p>   | <p>Initial decision to defer a decision on the timing and legislative vehicle by which a change of name would be achieved until the scope of other potential reforms became clearer.</p> <p>Subsequent decision to incorporate the change of name in the Senedd and Elections (Wales) Bill, which also addresses a range of other issues.</p> |
| <p>Concerns raised by consultation respondents about the potential cost of implementing a change in the Assembly’s name.</p>  | <p>Agreement that a change in the name would not be accompanied by a full rebranding exercise.</p>  |

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## 5.3. “Creating a Parliament for Wales” consultation (February to April 2018)

### 5.3.1. Consultation background

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**290.** Following the publication of the report of the Expert Panel on Assembly Electoral Reform in December 2017, the Assembly Commission decided to consult the public and stakeholders on the Panel’s recommendations and on the potential scope of other reforms to the Assembly’s electoral and internal arrangements.

### 5.3.2. Consultation approach

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**291.** A bilingual consultation document and response form were made available in hard copy and online, which included background information about the proposals. Easy read versions of the consultation document and response form were also made available.<sup>77</sup> A microsite was published, which provided details of the proposals in a more accessible way. Respondents could choose between completing an online survey covering all of the proposals or separate surveys addressing only the proposals of interest to them. The consultation documents and microsite were promoted via social media, shared via email with a range of stakeholders and distributed by the Assembly’s Outreach and Education teams.

**292.** Materials for young people, including workshop activities, were developed and shared with schools and youth groups across Wales. Sessions were delivered across Wales by the Assembly’s Outreach and Education teams.

**293.** Four regional consultation events were held across Wales and promoted in various ways. Each event included presentations on the work of the Expert Panel on Assembly Electoral Reform and the potential reforms proposed in the consultation document. Attendees at the events were able to ask questions about the proposals, and were encouraged to respond to the consultation.

**294.** The Assembly Commission led targeted engagement with specific stakeholders, including electoral stakeholders, local government stakeholders, unions, the private and voluntary sectors and others.

**295.** The Commission received over 3,200 consultation submissions, the majority through the online surveys.

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<sup>77</sup> National Assembly for Wales, Changing the Name of the National Assembly for Wales, [www.assembly.wales/name](http://www.assembly.wales/name)

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**296.** Respondents could respond separately to each of the 6 issue-specific online surveys or could respond to the consultation as a whole. For this reason, the 3,200 submissions cannot be directly equated to 3,200 separate respondents. However, analysis of the consultation responses suggests that only a small number of respondents completed more than one online survey.

**297.** Of the 3,200 submissions:

- 200 were from people who identified themselves as being under the age of 18;
- 37 were from companies or organisations, including private businesses, public bodies, academic institutions, voluntary organisations, charities, political parties and representative bodies; and
- 10 per cent were received in Welsh and 90 per cent were received in English.

### 5.3.3. Consultation findings

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**298.** A summary of the consultation responses is set out below. A full report on the consultation is available on the Assembly's website.<sup>78</sup>

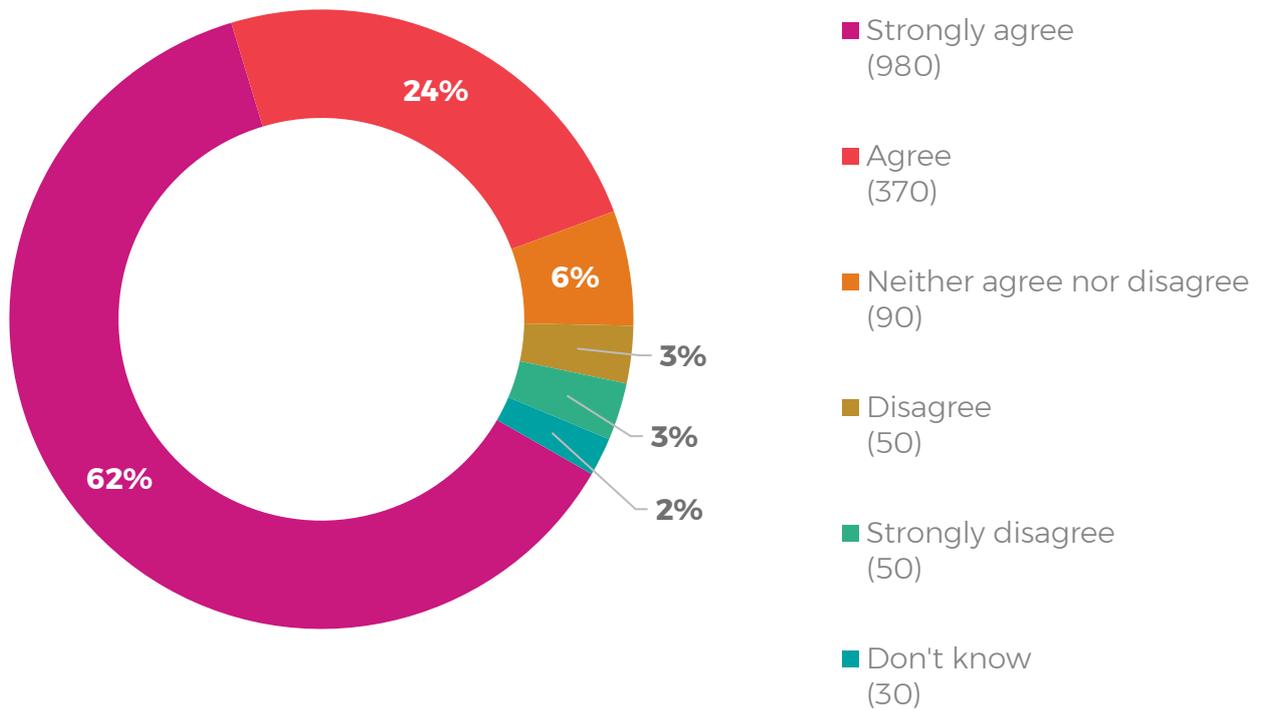
#### **5.3.3.1. Views on entitlement to vote in Assembly elections**

**299.** The Commission asked for people's views on whether the same people should be allowed to vote in the National Assembly for Wales elections and in local government elections in Wales. The results were as follows:

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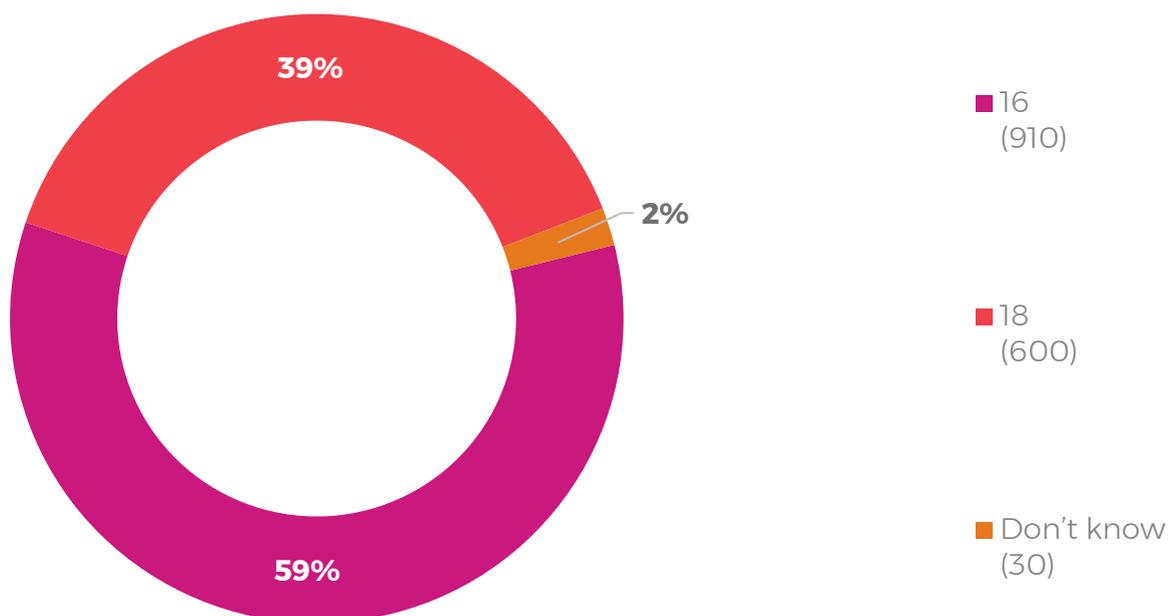
<sup>78</sup> National Assembly for Wales Commission, [Creating a Parliament for Wales: Consultation report](#), October 2018.

**Figure 4 Analysis of responses to a consultation question on whether the same people should be allowed to vote in Assembly and local government elections in Wales**



**300.** The Commission asked for views on what the minimum voting age should be for Assembly elections. The pie chart below shows the overall percentage and number of people who said 16, 18 or “don’t know”. The table below shows this information according to the age of respondents.

**Figure 5 Analysis of responses to a consultation question on what the minimum voting age should be for Assembly elections**



**Table 4 Analysis of responses to a consultation question on what the minimum voting age should be for Assembly elections, by age**

| Answer     | Under 18s       |     | Over 18s |     | Overall           |     |
|------------|-----------------|-----|----------|-----|-------------------|-----|
| 16         | 100             | 81% | 810      | 57% | 910               | 59% |
| 18         | 20              | 18% | 570      | 41% | 590 <sup>79</sup> | 39% |
| Don't know | 0 <sup>80</sup> | 1%  | 30       | 2%  | 30                | 2%  |

### 5.3.3.2. Views on disqualification from being an Assembly Member

**301.** The Commission asked for views on whether legislation to reform the Assembly's electoral arrangements should include provision to implement the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee in relation to disqualification from being an Assembly Member.

**302.** The consultation set out that the recommendations included that:

- the law should be changed to ensure most disqualifications take effect on taking the oath or affirmation of allegiance, instead of taking effect on nomination as a candidate in an Assembly election;
- the list of disqualifying posts and offices should be made clearer; and
- members of the House of Lords should be disqualified from membership of the Assembly.

**303.** Of the 510 responses on this issue:

- 34 per cent (180) agreed that legislation to reform the Assembly's electoral arrangements should include provision to implement the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee in relation to disqualification from being an Assembly Member;
- 13 per cent (70) of responses disagreed; and

<sup>79</sup> The actual number of under 18s and over 18s who wanted to retain the minimum voting age of 18 was 22 and 575 respectively. This makes a total of 597 which, when rounded, gives a figure of 600. However, when these numbers are rounded off as separate numbers, to 20 and 570 respectively, they make a total of 590 as shown here..

<sup>80</sup> The number of respondents was less than five and has therefore been rounded to 0. The actual number still constitutes 1 per cent of the total number of under 18s that responded to this question.

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- the other responses to this question did not firmly agree or disagree with the question – rather, they either commented on the Committee’s recommendations, answered “don’t know” or said that they had not understood the question.

### **5.3.3.3. Views on the implementation of Law Commission recommendations on the rationalisation of electoral law**

**304.** The Commission asked people whether legislation to reform the Assembly’s electoral arrangements should include provision to implement the Law Commissions’ recommendations in relation to the conduct and administration of elections.

**305.** The consultation set out that:

- the Law Commissions of England and Wales, Scotland and Northern Ireland had conducted a joint electoral law reform project; and
- in its interim report, published in February 2016, the Law Commission made recommendations to rationalise the current laws relating to elections into a single, consistent legislative framework, which provided consistency across different elections (subject to differentiation due to the voting system or other justifiable principle or policy).

**306.** Of 420 responses on this issue, 57 per cent (240) considered that the Assembly should legislate to implement the Law Commission’s recommendations and four per cent (10) disagreed.

### **5.3.3.4. Views on the date of the first meeting of the Assembly**

**307.** The Commission asked people whether the *GOWA 2006* should be amended in order to give the Assembly greater flexibility to determine its own working practices and arrangements through its internal procedures rather than in legislation.

**308.** The consultation set out that one of the potential amendments to the *GOWA 2006* was to increase the time limit on when the first meeting after an Assembly election must be held from 7 days to 14 days, thus extending the opportunities for discussions and negotiations between political parties after an election.

**309.** Of 770 responses on this issue, 60 per cent (460) supported the proposed reforms to provide greater flexibility for the Assembly to determine its own ways of working, with 30 per cent (240) opposed.

### 5.3.3.5. Views on the powers of the Assembly Commission

**310.** This issue was not covered in the consultation. This reflects that the Bill's intention is to clarify existing legislation on the Commission's powers rather than make significant changes to the Commission's statutory powers.

**311.** At present, there are no plans to use the Commission's powers to charge for goods and services that are not in connection with the discharge of its functions.

**312.** Careful consideration would be needed of any intention to use such powers including a detailed assessment of the impacts of that. On this basis, it was not considered necessary to consult on this issue. Any intention by the Commission to use such powers would require careful consideration and the impact of any such decision would need to be assessed.

## 5.4. Impact of the consultation on the legislative proposals

**313.** Table 5 sets out issues raised during the consultation period and associated decisions.

**Table 5 Issues raised during the consultation period and associated decisions**

| Issues raised  | Decisions   |
|--|---|
| The consultation showed clear support for ensuring the same people are allowed to vote in Assembly and local government elections. | <p>Section 12 of <i>GOWA 2006</i> links the franchise for Assembly elections to the franchise for local government elections in Wales. Accordingly, any changes to the franchise for local government elections automatically apply to Assembly elections.</p> <p>The Bill includes provision to extend the franchise for Assembly elections to include 16- and 17-year olds. As 16- and 17-year olds will not be enfranchised to vote in local government elections in Wales at the same time, this will lead to different franchises for these elections.</p> <p>However, the Welsh Government has announced its intention to introduce legislation in 2019 to allow 16- and 17-year olds to vote in local government elections in Wales. This means that the divergence in the franchises whereby 16- and 17-year olds are allowed to vote in Assembly elections but not</p> |

|  |   |
|--|---|
|  | <p>local government elections should only exist for a short period and both franchises should include 16 and 17 year olds by the date of the next Assembly election in 2021 and local government elections in 2022.</p>   |
| <p>The response to the consultation showed a majority in support of lowering the voting age for Assembly elections from 18 to 16.</p>  | <p>Decision taken to include provision in the Bill to extend the franchise for Assembly elections to 16- and 17-year olds.</p>  |
| <p>The response to the consultation showed a majority in favour of allowing all legal residents in Wales to vote in Assembly elections irrespective of their nationality or citizenship.</p> | <p>Decision taken not to include provision in the Bill to extend the franchise for Assembly elections to include all legal residents in Wales.<sup>81</sup></p> <p>Whilst responses to the consultation showed support for allowing all legal residents in Wales to vote in Assembly elections, they also demonstrated a wide range of views on how this should be implemented.</p> <p>For example, some respondents felt that only legal residents should be allowed to vote whilst others felt all residents should be enfranchised. Some felt the vote should be given to all UK residents whilst others said only residents in Wales should be allowed to vote. There was also a range of views on whether to impose a minimum period of residence as a condition on voting, and on the length of that period of residence.</p> <p>The Welsh Government intends to enfranchise in local government elections anyone from any nationality who legally resides in Wales. Whilst most respondents to the consultation felt all legal residents in Wales should be allowed to vote in Assembly elections, there are fundamental differences between the remit of the Assembly and local authorities. Local government make decisions about local services, which directly affect local residents. The National Assembly for Wales makes</p> |

<sup>81</sup> The Bill does not provide for non-EU and non-Commonwealth citizens, nor prisoners, to be able to vote. As such, the franchise cannot be said to be extended to all legal residents in Wales.

|  |   |
|--|---|
|  | <p>decisions about issues of principle and the direction, values, and laws of Wales as a whole. There is therefore a legitimate argument in favour of enabling all legal residents to vote in local elections, but reserving votes to the National Assembly for Wales to those who have made a deeper commitment of being a citizen of the UK, European Union or Commonwealth. There are finely balanced arguments around this issue, and the Assembly may wish to give further consideration to this matter during its legislative scrutiny of the Bill. Further detail on the Assembly Commission's rationale for not enfranchising prisoners and non-EU and non-Commonwealth citizens is set out in the Equality Impact Assessment and Children's Rights Impact Assessment of this Explanatory Memorandum.</p>   |
| <p><b>The response to the consultation showed significant support for allowing some categories of prisoners to vote in Assembly elections.</b></p> | <p>Decision taken not to include provision in the Bill to allow prisoners to vote in Assembly elections.</p> <p>Having consulted on the principle of allowing some categories of prisoners to vote in Assembly elections in accordance with plans set out by the Welsh and UK governments, the Commission concluded that the legal, ethical, democratic, practical and human rights issues relating to prisoner voting required further political consideration and judgement. There is an insufficient evidence base on which to reach decisions and insufficient time to enable this to be properly considered for inclusion in the Commission's Assembly reform legislation. However, the Commission has invited the Assembly's Equality, Local Government and Communities Committee to hold an inquiry to examine the issue of whether prisoners from Wales should be allowed to vote in elections to the National Assembly. Further consideration of this issue is set out in the Equality Impact Assessment and</p> |

|  |   |
|--|---|
|  | Children's Rights Impact Assessment of this Explanatory Memorandum.   |
| The response to the consultation showed a majority of respondents in favour of implementing the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee in relation to disqualification from being an Assembly Member.                                   | Decision taken to include provisions in the Bill to implement the Committee's recommendations.  |
| The response to the consultation showed more than half of respondents felt that legislation to reform the Assembly's electoral arrangements should include provision to implement the Law Commission's recommendations on electoral law reform.  | Decision taken to include provision in the Bill to enable the Welsh Ministers to implement the Law Commission's recommendation on electoral law reform.   |
| The response to the consultation showed a majority of respondents in favour of including provisions in the Assembly's legislation to implement the Electoral Commission's recommendations relating to translation and disability-related costs.  | Decision taken not to include provisions in the Bill to implement the Electoral Commission's recommendations. It has been agreed with the Welsh Government that it would be more appropriate for the Electoral Commission's recommendations to be implemented within Welsh Government sub-legislation than within Assembly Commission primary legislation. See section 3.4.3 for a full explanation of the reasons for this decision. |
| The response to the consultation showed over half of respondents felt the Government of Wales Act 2006 should be amended in order to give the Assembly greater flexibility to determine its own working practices and arrangements through internal procedures rather than in legislation. | Decision taken to include provision in the Bill to extend the deadline by which the Assembly must hold its first meeting after an election from 7 to 14 days.<br><br>It is anticipated that other issues consulted upon relating to the Assembly working practices and arrangements will be considered in the context of the Assembly Commission's wider legislative strategy.  |

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## 5.5. Other consultation and engagement activity

### 5.5.1. Expert Panel on Assembly Electoral Reform: evidence gathering (February to October 2017)

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**314.** On 1 February 2017 the Llywydd announced that the Assembly Commission had established an Expert Panel on Electoral Reform to provide robust, politically impartial advice on the number of Members the Assembly needs, the most suitable electoral system, and the minimum voting age for Assembly elections.<sup>82</sup>

**315.** The Expert Panel's role was to produce a report based on the technical expertise of its chair and members in matters of parliamentary capacity and electoral systems. To supplement Expert Panel members' own expertise, during the course of its work the Expert Panel gathered targeted evidence from specialist academics and key stakeholders, including the Electoral Commission, the Boundary Commission for Wales and the Local Democracy and Boundary Commission for Wales. On 30 March 2017, the Expert Panel issued a general call for the submission of comments or evidence on any of the matters within its remit. The call for evidence was published on the Expert Panel's webpage, promoted via social media and sent directly by email to stakeholders and those who had expressed an interest in the Panel's work.

**316.** Evidence submissions were received from 33 individuals or organisations. These submissions were published on the Expert Panel's webpage.<sup>83</sup> The submissions received formed part of the evidence base on which the Expert Panel based its findings. Details of how the Panel used the evidence to reach its conclusions are set out in its report, *A Parliament that Works for Wales*.<sup>84</sup>

### 5.5.2. Political Reference Group (February 2017 onwards)

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**317.** The Llywydd has consistently stated that the reforms set out in the Bill require broad political consensus both to achieve the required "super-majority" of 40 Members voting in favour of the Bill at Stage 4 of the legislative process and as a point of principle given the nature of the constitutional reforms for which the Bill provides. To engage the political parties represented in the Assembly, a Political Reference Group was established. The Political Reference Group was chaired by the Llywydd, and included representatives nominated by the Leaders of all

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<sup>82</sup> National Assembly for Wales Commission, *Written statement on the Expert Panel on Assembly Electoral Reform*, 1 February 2017

<sup>83</sup> Expert Panel on Assembly Electoral Reform, *Written submissions to the Expert Panel*

<sup>84</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that Works for Wales*, December 2017

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political parties represented in the Assembly. The role of the Political Reference Group was initially to act as a sounding board for the Expert Panel on Assembly Electoral Reform. The Political Reference Group met monthly with the Chair of the Expert Panel to discuss issues relevant to the Panel's work. Since the Panel's work came to an end in December 2017, the Political Reference Group continued to meet periodically as a mechanism to provide advice to the Llywydd and Assembly Commission, and to engage political parties represented in the Assembly in the development of the legislative proposals.

**318.** Meetings of the Political Reference Group were supplemented by ad hoc meetings between the Member in charge and Commission officials and representatives of political parties.

### 5.5.3. Engagement with the Assembly and associated bodies and office holders

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**319.** The *Wales Act 2017* gives the Assembly powers over its own electoral and internal arrangements. Work to explore the use of these powers and to develop the legislative proposals included in the Bill has been led by the Member in charge, on behalf of the Assembly Commission and the wider institution.

**320.** However, a number of the issues relating to electoral and internal reform do not fall wholly within the Commission's functions. Throughout the development of the proposals, the Member in charge has therefore engaged relevant Assembly committees, as set out below:

#### **5.5.3.1. Constitutional and Legislative Affairs Committee**

**321.** The Constitutional and Legislative Affairs Committee has responsibility for constitutional, legislative and governmental matters within or relating to the competence of the Assembly or the Welsh Ministers. This includes, for example, matters relating to Assembly privilege and the disqualification of Assembly Members.

**322.** The Llywydd wrote to the Committee to invite its views on:

- whether legislation to reform the Assembly could provide a suitable opportunity to give effect to the recommendations of the Fourth Assembly's Constitutional and Legislative Affairs Committee for reform of the legal framework for disqualification from being an Assembly Member; and

- whether any reform was required to the provisions in the GOWA 2006 relating to Assembly privilege, and defamation and contempt of court, which the WA 2017 would bring within competence.

**323.** Table 6 sets out the Constitutional and Legislative Affairs Committee’s views and the associated decisions taken.

**Table 6 Issues raised by the Constitutional and Legislative Affairs Committee and associated decisions**

| Issues raised   | Decisions  |
|---|--|
| While the Fifth Assembly’s Constitutional and Legislative Affairs Committee had not considered issues of disqualification in detail, it considered its predecessor’s recommendations provided a firm basis for consultation.  | To include the Fourth Assembly Constitutional and Legislative Affairs Committee’s recommendations on disqualification within the Assembly Commission’s consultation on the scope of potential reforms. |
| The Constitutional and Legislative Affairs Committee highlighted the complexity and significance of issues relating to Assembly privilege, and defamation and contempt of court, and noted that these issues would require in depth consideration before it would be in a position to offer a view. | Conclusion that there was insufficient evidence that reform to these arrangements was required.  |

### **5.5.3.2. Standards of Conduct Committee and the Commissioner for Standards**

**324.** The Standards of Conduct Committee is responsible for the functions set out in Standing Order 22. These include, inter alia, consideration of any matters of principle relating to the conduct of Members. The Commissioner for Standards is an independent person appointed by the Assembly to provide advice and assistance on any matter of principle relating to the conduct of Assembly Members.

**325.** The Llywydd wrote to the Standards of Conduct Committee and the Commissioner for Standards to invite their views on whether any reform was required to the provisions in the GOWA 2006 relating to standards and integrity which the WA 2017 would bring within competence.

**326.** Table 7 sets out the views of the Standards of Conduct Committee and the Commissioner for Standards and the associated decisions taken.

**Table 7 Issues raised by the Standards of Conduct Committee and the Commissioner for Standards and associated decisions**

| Issues raised   | Decisions  |
|---|--|
| The Standards of Conduct Committee noted it had discussed these issues with the Commissioner for Standards, and concluded that no reform was required to the legislative provisions in the <i>GOWA 2006</i> at this time. | Decision that the Bill would not seek to reform the legislative framework for standards and integrity. |

**327.** The Commissioner for Standards was also consulted on the initial proposal to change the statutory title from National Assembly for Wales Commissioner for Standards to Welsh Parliament Commissioner for Standards.

**328.** Table 8 sets out the views of the Commissioner for Standards and the associated decisions taken.

**Table 8 Issues raised by the Commissioner for Standards and associated decisions**

| Issues raised  | Decisions  |
|--|--|
| The Commissioner for Standards was content with the proposal for the statutory title to be changed in accordance with the proposals. | To include within the legislation provisions to change the statutory title of the Commissioner for Standards to reflect the renaming of the Assembly as the Senedd. Provision to this effect is included in section 8 of the Bill. |

### **5.5.3.3. Business Committee**

**329.** The Business Committee is responsible for the organisation of Assembly business. Its role is to facilitate the effective organisation of Assembly proceedings.

**330.** As chair of the Business Committee, the Llywydd kept the Committee updated throughout the development of legislative proposals to use the powers in the *WA 2017* to reform the Assembly's internal arrangements.

### **5.5.3.4. Remuneration Board**

**331.** The Remuneration Board was consulted on the initial proposal to change its statutory title from National Assembly for Wales Remuneration Board to Welsh Parliament Remuneration Board, and subsequent proposal to change its name to the Independent Remuneration Board of the Senedd.

**332.** Table 9 sets out the Remuneration Board's views and the associated decisions taken.

**Table 9 Issues raised by the Remuneration Board and associated decisions**

| Issues raised   | Decisions   |
|---|---|
| <p>The Remuneration Board agreed that its name should be changed to reflect the change to the Assembly’s name, but requested that its name be changed to Welsh Parliament Independent Remuneration Board.</p> | <p>To include within the legislation provisions to change the statutory title of the Remuneration Board to reflect the renaming of the Assembly as Senedd, in accordance with the preferred name proposed by the Remuneration Board. Provision to this effect is included in section 7 of the Bill.</p> |

### 5.5.3.5. National Assembly for Wales

**333.** In addition to the engagement with political parties outlined above, Assembly Members have been kept updated and informed about the exploration of the use of the powers in the *WA 2017* and the development of the legislative proposals set out in the Bill in a number of ways. This has included formal Written Statements from the Llywydd at key milestones, as well as regular communication through established communication channels.

**334.** On 7 February 2018, the Assembly debated and agreed the following motion, tabled by the Llywydd as chair of the Assembly Commission:<sup>85</sup>

“To propose that the National Assembly for Wales:

1. Notes the report of the Expert Panel on Assembly Electoral Reform.
2. Approves the Assembly Commission’s decision to consult on the Panel’s proposals and other electoral, franchise and internal reforms made possible by the Wales Act 2017.”

**335.** On 10 October 2018, the Assembly debated and agreed the following motion, tabled by the Llywydd as chair of the Assembly Commission thereby enabling the Commission to introduce this Bill:<sup>86</sup>

“To propose that the National Assembly for Wales:

1. Notes the Assembly Commission’s report: “Creating a Parliament for Wales, Consultation Report”, October 2018;

<sup>85</sup> National Assembly for Wales, [Record of Proceedings](#), 7 February 2018.

<sup>86</sup> National Assembly for Wales, [Record of Proceedings](#), 10 October 2018

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2. Notes the Assembly Commission's written statement: The Welsh Parliament and Elections (Wales) Bill;

3. Agrees to allow the Assembly Commission to introduce a Bill to:

a) change the name of the National Assembly for Wales;

b) extend the franchise for Assembly elections;

c) amend the law relating to disqualification; and

d) make other changes to, and associated with, the Assembly's electoral and internal arrangements."

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## 6. Power to make subordinate legislation

**336.** The Bill contains provisions to make subordinate legislation. Table 10 below sets out the following in relation to each such provision:

- where in the Bill each provision may be found;
- the person upon whom, or the body upon which, the power is conferred;
- the form in which the power is to be exercised;
- the reason for which a delegated power is appropriate; and
- the scrutiny procedure to which each delegated power will be subject, if any.

**337.** The precise nature of consultation on the subordinate legislation, where it is appropriate to do so, will be decided when the proposals have been formalised.

**338.** There are no provisions contained in the Bill to make directions and determinations and to issue guidance with respect to the extension of the franchise.

**Table 10 Summary of powers to make subordinate legislation**

| Section  | Power conferred on | Form        | Appropriateness of delegated power  | Procedure  | Reason for procedure   |
|--|--------------------|-------------|---|--|--|
| Section 14<br>Invitations to register: further provision about persons under the age of 16 | Welsh Ministers    | Regulations | Provides the power to specify the form, content and timing of invitation to register for the local government register, as well as any forms for completion. They may also modify any enactment or confer functions on the Electoral Commission. However, before making regulations Welsh Ministers must consult such persons as they consider appropriate. | Negative unless the instrument contains provision modifying primary legislation then affirmative procedure must apply. | Regular amendments to the forms which invite individuals to register may be necessary and the Electoral Commission has previously advised that secondary legislation is preferable in such instances. Where the regulations would modify primary legislation, the affirmative procedure would apply. |
| Section 18 power to add certain categories to the definition of secure accommodation       | Welsh Ministers    | Regulations | Provides a power (under subsection 2B(b) of section 7B of the Representation of the People Act 1983) to add certain categories and specified circumstances to the definition of secure accommodation.   | Negative   | Prescribes technical and administrative matters which may need to be updated from time to time.  |

|  |                        |                    |  |  |  |
|--|------------------------|--------------------|--|--|--|
| <p><b>Section 25</b><br/>power to make regulations about the disclosure of a young person's information in connection with elections to the Senedd</p> | <p>Welsh Ministers</p> | <p>Regulations</p> | <p>Provides a power to set out the arrangements for how the information of electors under the age of 16 may be supplied and protected.</p> <p>Regulations may also amend, repeal or modify section 15 of the Bill or provide for the creation of criminal offences punishable on summary conviction by a fine.</p> | <p>Negative unless the instrument contains provision modifying primary legislation then affirmative procedure must apply.</p> <p>Before making regulations under section 25, the Welsh Ministers must consult such persons as they consider appropriate.</p> | <p>Regulations may be necessary to prescribe technical and administrative matters which may need to be updated from time to time. Where this is the case, the negative procedure would apply. Where regulations amend primary legislation the affirmative procedure will apply to enable a suitable level of scrutiny.</p> |
| <p><b>Section 36</b><br/>power of the Welsh Ministers to make provision about elections</p>  | <p>Welsh Ministers</p> | <p>Order</p>       | <p>Provides a power (under section 13 of the GOWA 2006) to enable Welsh Ministers to give effect to the recommendations of the Law Commission in relation to the rationalisation of electoral law recommended by the Law Commission for England and Wales.</p>   | <p>Affirmative, as is the case with orders made under the existing section 13 power.</p>   | <p>To ensure a suitable level of scrutiny of the use of the order-making power by the Welsh Ministers.</p>   |

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# Part 2: Regulatory Impact Assessment

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**339.** A regulatory impact assessment (RIA) has been completed for the Bill, which is summarised in the next section, and considered in detail in the following sections.

**340.** There are no specific provisions in the Bill which directly charge expenditure on the Welsh Consolidated Fund.

## 7. Summary: Regulatory Impact Assessment

### Senedd and Elections (Wales) Bill

Preferred option:

Introduce legislation to:

- change the name of the institution from the National Assembly for Wales (Cynulliad Cenedlaethol Cymru) to Senedd, and make consequential changes to relevant names, titles and descriptors;
- extend the Assembly franchise to allow 16- and 17-year olds to be able to register and vote in Assembly elections;
- make technical amendments to the way in which disqualification from being a Member operates, and amendments to disqualifying offices;
- place a duty on the Assembly to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums;
- give Welsh Ministers an enabling power to make such subordinate legislation as is required to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration which the Law Commissions may make in due course; and
- extend the period after an election within which the Assembly must hold its first meeting, and clarify the provisions in the GOWA 2006 enabling the Assembly Commission to charge for services which are not connected to the Assembly's functions.

|  |   |  |
|--|---|--|
| Stage:<br>Introduction   | Appraisal period:<br>2020-21 – 2024-25            | Price base year:<br>2018-19            |
| Total increased cost:<br>Total cost: £2,757,600<br>Present value: £2,701,500 | Total benefits:<br>Total: £0<br>Present value: £0 | Net present value (NPV):<br>£2,701,500 |

### 7.1. Administrative, compliance and other costs

#### 7.1.1. Ongoing costs

**341.** The Bill is expected to result in increased ongoing administrative costs over a five-year period for the following organisations:

- Local authorities: £421,000;
- Welsh Government: £153,900;

- National Assembly for Wales Commission: £41,300;
- Electoral Commission: £19,600.

**342.** This is a total of £635,800.

**343.** There are also a number of ongoing costs associated with activities which are “impacted upon” by the Bill, but which do not result in changed costs. In particular, costs related to maintaining a stock of stationery for Members (£475,000), replacement of Members’ signage, banners and web domains (£14,200) and the processing of Members’ claims for those (£500), replacement of mats and carpets on the Assembly estate (£13,600) and maintaining Assembly website domain names and security certificates (£1,500). These costs, all falling on the Assembly Commission, are considered to be the same, regardless of whether or not legislation takes place. The total of these costs is estimated to be £504,800.

**344.** The “gross” ongoing cost of legislating, when combined with costs that would arise regardless of whether or not legislation took place, is therefore £1,140,600.

### 7.1.2. Transitional costs

**345.** The Bill is also expected to result in transitional costs for the following organisations:

- Local authorities: £1,582,500;
- Electoral Commission: £155,400;
- Welsh Government: £63,200;
- National Assembly for Wales Commission: £320,700.

| Transitional: | Ongoing: | Total:     | Present Value: |
|---------------|----------|------------|----------------|
| £2,121,800    | £635,800 | £2,757,600 | £2,701,500     |

**346.** The Bill is not expected to result in any compliance costs, and no other relevant costs have been identified as a result of the Bill.

## 7.2. Cost savings

**347.** The Bill is not expected to result in significant quantified savings. A saving of £600 for the Assembly Commission has been identified as the likely result of provisions that will extend the deadline for the first Assembly meeting after an election.

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**348.** It is possible that savings could be made as a result of provisions that make technical amendments to the way in which disqualification from being a Member operates. However, those potential savings are unknown as a high degree of uncertainty is associated with them.

**349.** It is also possible that efficiency savings in relation to electoral administration could be made as a result of provisions resulting from the Law Commission’s recommendations. However, as there is insufficient data to estimate those cost savings they are unknown.

| Transitional: | Ongoing: | Total: | Present Value: |
|---------------|----------|--------|----------------|
| £0            | £600     | £600   | £600           |

### 7.3. Net administrative cost

**350.** The Bill is therefore expected to result in a net administrative cost of £2,757,000.

### 7.4. Benefits and dis-benefits that cannot be quantified financially

**351.** The Bill is expected to lead to a range of benefits, many of which that cannot be quantified financially. For example, changing the Assembly’s name would give rise to benefits in terms of public understanding of the role, responsibilities and powers of the institution, and its place in the UK’s constitutional landscape. However, no measure exists in order to quantify this financially.

**352.** Full consideration of the benefits in relation to each preferred option is included in the RIA detail.

### 7.5. Cost benefits

**353.** No specific cost benefits as a result of the Bill have been identified.

### 7.6. Key evidence, assumptions and uncertainties

**354.** Evidence included in the RIA has been informed through discussion with key stakeholders, including: the Welsh Government, the Electoral Commission, political parties, other legislatures and local authorities. The RIA is also informed by the findings from the consultation on changing the name of the Assembly and the Commission’s consultation on the Expert Panel on Assembly Reform’s recommendations, “Creating a Parliament for Wales”, thereby allowing the RIA to incorporate the views of a wide range of stakeholders.

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**355.** A 5-year appraisal period has been chosen for the analysis of costs and benefits, in line with normal practice when developing regulatory impact assessments, and to take into account costs incurred over a full election cycle. Where costs and benefits in relation to the occurrence of an election have been identified, they have been presented as falling wholly within the financial year of that election, although that may not be the case in reality.

**356.** Assumptions have been made when estimating a number of costs, and these are detailed in the relevant sections. To avoid attempts at spurious accuracy, the costs have been rounded to the nearest £100. Where cost estimates are lower than £50, rounding has been avoided, as this would remove the costs. However, sub-totals in summary tables have been rounded in order to avoid false accuracy in totals.

**357.** Where there is uncertainty, this has been identified, and the upper range of the resulting estimated cost has been used. This cautious approach may result in the actual costs of implementing the Bill being lower.

**358.** Where cost estimates are calculated based on previous purchases from external providers, or using historic information, inflation has been accounted for in line with Gross Domestic Product (GDP) deflators as of October 2018.<sup>87</sup> Where required, Value Added Tax (VAT) has also been accounted for at the current rate of 20 per cent.

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<sup>87</sup> National Statistics, [GDP deflators at market prices, and money GDP October 2018 \(Quarterly National Accounts\)](#)

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## 8. Options, costs and benefits

**359.** This RIA is structured around each policy objective of the Bill for ease of reference. Options for each is presented, with the first being maintaining the status quo, referred to as “do nothing”. Costs and benefits for each option are then presented, followed by confirmation of the preferred option for realising the policy objective.

**360.** The preferred options are to:

- Change the name of the institution from the National Assembly for Wales / Cynulliad Cenedlaethol Cymru to Senedd, and make consequential changes to relevant names, titles and descriptors. This will ensure the name of the institution reflects its constitutional position, and improve public understanding of the role and responsibilities of the legislature.
- Lower the minimum voting age in Assembly elections to 16 and implement reform of associated electoral registration arrangements. This will empower, engage and enthuse young people in democracy in Wales, and ensure that the appropriate arrangements are in place for the smooth operation of the Assembly franchise.
- Make changes to the law on disqualification from being an Assembly Member. The purpose of the Bill’s provisions on disqualification is to clarify and reform the legislative framework relating to disqualification from being an Assembly Member, to provide greater clarity for potential candidates about their eligibility to stand for election and enable more people to stand for election without having to resign their jobs in order to stand.
- Place a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums, and a duty on the Electoral Commission to respond to any recommendations made by the Assembly in light of such consideration.
- Introduce a regulation-making power to implement Law Commission recommendations relating to electoral law reform. This is aimed at ensuring that Law Commission recommendations to rationalise the current laws relating to elections may be implemented for Assembly and local elections, contributing to the development of a consistent

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legislative framework, which provides consistency across different elections.

- Extend the deadline for the first meeting of the Assembly after an Assembly election. This will extend the opportunities for discussions and negotiations between political parties after an election, reflecting the importance of such discussions, particularly within an electoral system which may be unlikely to produce majority governments.
- Clarify Assembly Commission powers to charge for goods and services. This will remove the current ambiguity surrounding those powers in order to reduce the potential for any future legal challenge should the Commission decide to charge for services not connected to its functions (albeit there are no current plans to do so).

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## 9. Cost assessment of changing the name of the Assembly

### 9.1. General approach to cost assessment

**361.** The provisions relating to changing the name of the National Assembly give rise to a range of costs. These costs are presented under the following headings:

- **Members' costs** – costs which will be directly incurred by Members via their allowances as per the Remuneration Board's Determination;
- **Communications** – costs which will be incurred in relation to how the National Assembly communicates, for example, via displays, publications and electronically;
- **Physical presence** – the physical signage and branded items on the Estate itself and more widely in the community (other than publications);
- **ICT** – costs incurred in relation to the provision of website and email addresses;
- **External organisations** – costs incurred by organisations other than the Assembly Commission.

**362.** The assessment of costs includes estimates of the opportunity costs of staff time used for delivering a name change, where otherwise that staff time would be used for normal duties. In practice, it is assumed that these costs would be absorbed within day-to-day work, managed through re-prioritisation of work, or otherwise managed within existing budgets.

### 9.2. Options considered

**363.** Three options have been considered for changing the name of the Assembly:

- **Option 1:** do not change the name of the Assembly.
- **Option 2:** change the name of the Assembly, informally, without changing the name in legislation. Corresponding informal changes could also be made to the names and titles of relevant office holders or bodies.

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- **Option 3:** legislate to change the name of the Assembly to Senedd and make associated changes to the names and titles of relevant office holders or bodies. This is the preferred option.

## 9.3. Option 1: do not change the name of the Assembly

### 9.3.1. Description

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**364.** The first option is to maintain the status quo and continue with the current name of the Assembly. The name of the institution, its Members, associated bodies and Assembly Acts would remain the same.

### 9.3.2. Costs and savings

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**365.** There would be no *additional* costs associated with this option as it would involve maintaining the status quo.

**366.** There would be no *additional* savings associated with this option as it would involve maintaining the status quo.

**367.** It has not been possible to assess the potential “opportunity costs” that could arise as a result of missing the opportunity to raise awareness of the role and functions of both the legislature and the government amongst the people of Wales and thereby encourage engagement in the democratic process. In theory, greater engagement in the democratic process could result in more effective scrutiny of government spending and could in turn result in financial savings. However, beyond this theorisation, it is not possible to assess potential savings not achieved as a result of this opportunity being missed.

**368.** A range of ongoing costs in relation to using the name of the Assembly have however been identified. These are summarised in Table 11 below and considered in further detail in the following sub-sections. These costs have been identified in collaboration with the department within the Assembly Commission that is responsible for the activity and verified (where possible) using historical financial data.

**Table 11 Option 1 (do not change the name of the Assembly) Total costs**

|  | 2020-21<br>(£) | 2021-22<br>(election<br>year)<br>(£) | 2022-23<br>(£) | 2023-24<br>(£) | 2024-25<br>(£) | Total cost<br>(£) |
|--|----------------|--------------------------------------|----------------|----------------|----------------|-------------------|
| <b>Members' costs</b>                              |                |                                      |                |                |                |                   |
| Signage for Members' constituency/regional offices | 300            | 7,900                                | 300            | 300            | 300            | 9,100             |
| Signage - Members' support staff procurement       | 100            | 1,600                                | 100            | 100            | 100            | 2,000             |
| Members' banners                                   | 100            | 2,900                                | 100            | 100            | 100            | 3,300             |
| Members' web domains                               | 200            | 200                                  | 200            | 200            | 200            | 1,000             |
| Members' stationery                                | 95,000         | 95,000                               | 95,000         | 95,000         | 95,000         | 475,000           |
| Commission staff claims administration             | 40             | 200                                  | 40             | 40             | 40             | 400               |
| <b>Total</b>                                       | <b>95,700</b>  | <b>107,800</b>                       | <b>95,700</b>  | <b>95,700</b>  | <b>95,700</b>  | <b>490,800</b>    |
|  |                |                                      |                |                |                |                   |
| <b>Physical Presence - Assembly estate</b>         |                |                                      |                |                |                |                   |
| Senedd entrance mat                                | -              | 1,200                                | -              | 1,200          | -              | 2,400             |
| Tŷ Hywel entrance carpet                           | -              | 5,100                                | -              | 5,100          | -              | 10,200            |
| Staff delivery and administration                  | -              | 500                                  | -              | 500            | -              | 1,000             |
| <b>Total</b>                                       | <b>-</b>       | <b>6,800</b>                         | <b>-</b>       | <b>6,800</b>   |                | <b>13,600</b>     |
|  |                |                                      |                |                |                |                   |
| <b>Assembly Commission ICT costs</b>               |                |                                      |                |                |                |                   |
| Assembly website web domains                       | 100            | 100                                  | 100            | 100            | 100            | 500               |
| SSL certificates                                   | 200            | 200                                  | 200            | 200            | 200            | 1,000             |
| <b>Total</b>                                       | <b>300</b>     | <b>300</b>                           | <b>300</b>     | <b>300</b>     | <b>300</b>     | <b>1,500</b>      |
| <b>TOTAL</b>                                       | <b>96,000</b>  | <b>114,900</b>                       | <b>96,000</b>  | <b>102,800</b> | <b>96,000</b>  | <b>505,900</b>    |

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### 9.3.2.1. Members' costs

**369.** Members' costs represent costs that are directly incurred by Members via their allowances as per the Remuneration Board's Determination. Under option 1, four main areas of ongoing Members' costs have been identified. These are:

- **signage for constituency offices:** Bilingual signage that would normally bear the name of the Assembly and the AM/AC suffix. Other costs associated with signage include design and installation;
- **banners:** Portable bilingual signs/posters, usually bearing the Assembly name and AM/AC suffix, which are used by Members when attending/hosting events and advice surgeries;
- **web domains:** electronic addresses used to access a website. Web domains may contain the AM/AC suffix. Websites are likely to contain this in addition to references to the National Assembly for Wales; and
- **stationery:** personalised bilingual stationery (e.g. letter heads, envelopes), produced in-house for Members.

### 9.3.2.2. Signage for Members' constituency/regional offices

**370.** Each Member of the National Assembly for Wales will normally have a sign for their constituency office(s). Most Members' office signs include the name of the Assembly, its logo, and/or suffix the name of the Members with "AM/AC".

**371.** Under option 1, there would be ongoing costs related to signage. Historically, signage has been purchased primarily in the financial year of an Assembly election, for Members who were not Members of the previous Assembly (or "new" Members). On average, 19 "new" Members are elected following each Assembly election.<sup>88</sup>

**372.** Historic data from 2012-13 and 2016-17 indicates that the average cost of a constituency office signage claim is £400.<sup>89</sup> An ongoing signage cost as a result of an Assembly election is therefore estimated to be £7,600.<sup>90</sup>

**373.** However, "new" Assembly Members may come into post at times other than at an Assembly election: between May 2011 and October 2018 (7.5 years), six

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<sup>88</sup> Following the 2003, 2007, 2011 and 2016 elections, an average of 19.25 Members who were not Members of the previous Assembly were elected.

<sup>89</sup> £401.25, rounded to the nearest £100.

<sup>90</sup> Based on £401.25 x 19 = £7,623.78, and rounded to nearest £100.

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Assembly Members have come into post during an Assembly term.<sup>91</sup> An ongoing signage cost (in both election years and non-election years) is therefore estimated to be £300.<sup>92</sup>

**374.** For the purpose of this RIA it is assumed that signage “wears well” and as such there is no need to replace signage periodically due to damage within the 5-year time frame of this RIA. Similarly, it is assumed that Members do not change office (which also reflects historic data that there have been no constituency office moves in the twelve months from October 2017 to October 2018).

**375.** There would also be an associated cost for Members’ support staff to procure signage. The staff time cost to undertake a procurement process for a single office sign is estimated to be £78.60.<sup>93</sup> The total ongoing cost for a 5-year period is therefore estimated to be £2,000.<sup>94</sup>

**376.** The total cost for signage replacement under option 1 over a 5-year period would therefore be £11,100.<sup>95</sup>

### **9.3.2.3. Members’ banners**

**377.** Banners in this context are portable bilingual signs or posters, usually bearing the Assembly name and AM/AC suffix, which are used by Members when attending/hosting events and advice surgeries.

**378.** In the event of there being no change of name there would still be ongoing costs related to banners. Historic data indicates that the average banner cost was £145. Based on an average of 19 “new” Members being usually elected following an Assembly election (as detailed at footnote 88), an ongoing banner cost as a result of an Assembly election is estimated to be £2,800.<sup>96</sup>

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<sup>91</sup> Rather than at the beginning of an Assembly term, as a result of a by-election or the replacement of a Member elected via a regional list.

<sup>92</sup> Based on  $£401.25 \times (6 \div 7.5) = £321.00$ .

<sup>93</sup> Based on a Band 1 support staff spending 6 hours in total at an hourly rate of £13.10 liaising with suppliers, reviewing designs and organising installation.

<sup>94</sup> Based on  $£78.60 \times (6 \div 7.5)$  for each year, and an additional  $£78.60 \times 19$  for an election year, equalling £1,808 and rounded to £2,000 after taking account for the rounding approach taken for each annual cost.

<sup>95</sup> Based on the signage cost following an Assembly election, in addition to the 5-year ongoing signage cost (in both election years and non-election years), in addition to the staff time costs for Members’ support staff.

<sup>96</sup> Based on  $£145.46 \times 19 = £2800.14$ .

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**379.** To reflect that “new” Members may come into post at times other than an Assembly election (as detailed at footnote 91), an ongoing banner cost (in both election years and non-election years) is estimated to be £100.<sup>97</sup>

**380.** The total cost for banners replacement under option 1 would therefore be £3,300.<sup>98</sup>

#### **9.3.2.4. Members’ web domains**

**381.** Members incur costs for registering web domains, which is the unique identifier for their websites.

**382.** Under option 1, there would be ongoing costs related to web domains. Web domains registrations are paid for annually, at an estimated cost of £31.68 per domain. As of August 2018 only seven Members maintained a web domain which bore the descriptor “AM/AC”, at a total cost of £200 per annum.<sup>99</sup> The number of Members requiring web-domains may vary over time depending on Members’ individual preferences. However, based on the assumption that the number of relevant Members remains constant, an ongoing cost in relation to web domains registrations over a 5-year period is estimated to be £1,000.

#### **9.3.2.5. Members’ stationery**

**383.** Personalised AM stationery is produced by the Assembly’s in-house copy unit. The stationery budget is set at £100,000 for 2018-19. Historically up to 95 per cent of this budget is spent in each financial year.

**384.** Based on the assumption that Members’ use of stationery, and consequently the use of the stationery budget, remained constant, an ongoing cost over a 5-year period for producing Members’ personalised stationery is estimated to be £475,000.

#### **9.3.2.6. Assembly Commission staff time for processing Members’ claims**

**385.** Based on the above costs for Members’ claims from their allowances as per the Remuneration Board’s Determination, there would be associated costs for Assembly Commission staff time for processing and authorising those claims.

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<sup>97</sup> Based on  $£145.46 \times (6 \div 7.5) = £116.37$ .

<sup>98</sup> Based on the banner cost following an Assembly election, in addition to the 5-year ongoing banner cost (in both election years and non-election years).

<sup>99</sup> Based on  $£31.78 \times 7 = £222.42$ .

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**386.** The staff time cost for processing and authorising a single claim is estimated to be £4.61.<sup>100</sup>

**387.** The associated cost for processing claims for signage for Members' constituency/regional offices under this option is therefore estimated to be £105.98<sup>101</sup>, with an identical estimated cost of £105.98<sup>102</sup> for processing claims for Members' banners.

**388.** The associated cost for processing claims for Members' web domains is estimated to be £161.35.<sup>103</sup>

**389.** The total cost for Assembly Commission staff time for processing Members' claims is therefore estimated to be £400.

### 9.3.3. Physical presence – Assembly estate

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**390.** Physical Presence represents costs relating to the branded signage (internal and external), furnishings and other items on the Assembly estate in Cardiff Bay and at the Colwyn Bay offices.

**391.** Under option 1, it would be expected that signage would require replacement from time to time due to wear and tear. However, historic data suggests that there are no regular maintenance costs, or otherwise need to replace them within a five-year period.

**392.** It is however expected that there will be costs in relation to replacing carpets and mats in Tŷ Hywel and the Senedd due to wear and tear.

**393.** Based on purchases of replacement carpets made in 2013-14 and 2016-17, it is assumed that replacement carpets will be purchased twice in a five-year period. Based on the cost of these purchases, the cost over this period is estimated to be £10,200.<sup>104</sup>

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<sup>100</sup> Based on a Team Support working spending 15 minutes processing a claim, and a Management Band 3 spending 5 minutes authorising the claim.

<sup>101</sup> Based on £4.61 x (6÷7.5) for each year, and an additional £4.61 x 19 for an election year.

<sup>102</sup> Based on £4.61 x (6÷7.5) for each year, and an additional £4.61 x 19 for an election year.

<sup>103</sup> Based on £4.61 x 7 for each year.

<sup>104</sup> Based on an average cost of the purchases as £5,116.27, after adjusting for inflation.

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**394.** In line with this assumption, it is also assumed that replacement entrance mats will also be purchased twice in a five-year period. Based on a purchase in 2018-19, the total cost over this period is estimated to be £2,400.<sup>105</sup>

**395.** The total staff time cost over a 5-year period associated to these purchases, involved in activities such as liaison with suppliers, obtaining proofs, agreeing timescales and delivering installation is estimated to be £1000.<sup>106</sup>

**396.** The total cost under option 1 for Physical Presence on the Assembly estate would therefore be £13,600.

#### 9.3.4. Assembly Commission ICT costs

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**397.** ICT costs represent costs relating to email addresses bearing the Assembly name, as well as the secure transfer of electronic data (SSL certificate).

**398.** Under option 1, there would be on-going costs in relation to registering web domains and maintaining SSL certificates. The Assembly has two web domains (assembly.wales and cynulliad.cymru), costing £50 each per annum (a total of £100 per year).

**399.** The Assembly Commission is required to secure the appropriate SSL security certificates (required to encrypt certain web services which collect personal data) for all associated websites. This is estimated at £200 per year.

**400.** The total estimated ICT costs over a five-year period under option 1 would therefore be £1,500.

#### 9.3.5. Benefits and risks

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**401.** Maintaining the current name of the institution has the benefit of familiarity for the public and stakeholders, and could avoid the risks of the name change being inadequately communicated or misunderstood by the public. It also has a lower financial cost than the other options considered.

**402.** The risk of maintaining the current name of the institution is that there is known to be a lack of clarity about the role and the powers of the National

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<sup>105</sup> Based on the purchase cost of £1,200.

<sup>106</sup> Based on a Management Band 3 spending 3 days at a cost of £373, and a Management Band 2 spending 0.5 days at a cost of £82, equalling £455.53, rounded up to the nearest £100 and multiplied by 2 years.

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Assembly for Wales, and changing the name of the legislature provides an opportunity to raise awareness of its role and functions.

**403.** The current lack of clarity has been established through numerous surveys and consultation exercises, as detailed in section 3.2.

**404.** Retaining the current name of the institution would not achieve the objective of ensuring that the name of the institution better reflects its constitutional status and responsibilities as a national parliament. It would also miss the opportunity to raise awareness of the role and functions of the legislature and the government among the people of Wales, and to encourage engagement in the democratic process.

## Option 2: change the name of the Assembly without legislation

### 9.3.6. Description

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**405.** The Assembly may agree to change its name informally, without making any legislative change. For example, the Assembly may resolve to be known by a different name, or the Commission and Assembly Members could simply begin to use a different name for the institution.

**406.** A similar approach was previously followed by the Welsh Government. While it was still legally known as the *Welsh Assembly Government* until statutory provisions were amended by the *WA 2014*, the Welsh Government began to use the name “Welsh Government” for itself in communications, signage and documentation on an informal basis from 2011 onwards.

### 9.3.7. Costs and savings

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**407.** The estimated costs of a non-statutory name change are broadly the same costs of a statutory change (set out in option 3). This is because the cost-arising changes to the Assembly’s own physical estate, communications, ICT and Members’ costs are broadly the same.

**408.** One minor saving in the Assembly’s costs (compared to option 3) is that there would be no staff time involved in updating the Llywydd’s determination on the proper form of Bills (because it would not be possible for the determination to change). This is a transitional saving, estimated to be £500.<sup>107</sup>

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<sup>107</sup> Based on an Executive Band 2 working 0.5 days at a cost of £138.95, and a Management Band 2 working 2 days at a cost of £328.38, equalling £467.33.

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**409.** Otherwise, no additional savings for the Assembly Commission have been identified with this option compared to option 3.

**410.** Section 9.4.8 under option 3 sets out that the cost to other organisations as a result of a legal name change would be a one-off, transitional cost of £122,000. If the Assembly changed its name informally, other organisations would have greater choice as to whether to update their publicly available information or signage and instead retained the existing statutory name. Organisations may argue that the use of the statutory name was more appropriate.

**411.** Under option 2 it is therefore assumed that this cost of £122,000 to external organisations would not be incurred.

**412.** The total costs under this option are summarised in Table 12. The total additional costs associated with option 2 is £172,100.

**Table 12 Option 2 (change the name of the Assembly without legislation) Total costs**

|  | Total cost of option 1 (£) | Transition costs (£) | 2020-21 (£)   | 2021-22 (election year) (£) | 2022-23 (£)   | 2023-24 (£)   | 2024-25 (£)   | Total cost (£) | Net cost (£)  |
|--|----------------------------|----------------------|---------------|-----------------------------|---------------|---------------|---------------|----------------|---------------|
| <b>Members' costs</b>  |                            |                      |               |                             |               |               |               |                |               |
| Signage for Members' constituency/regional offices                       | 9,100                      | 18,900               | 300           | 7,900                       | 300           | 300           | 300           | 28,000         | 18,900        |
| Signage - Members' support staff procurement                             | 2,000                      | 3,700                | 100           | 1,600                       | 100           | 100           | 100           | 5,700          | 3,700         |
| Members' banners   | 3,300                      | 6,000                | 100           | 2,900                       | 100           | 100           | 100           | 9,300          | 6,000         |
| Members' web domains   | 1,000                      | 200                  | 200           | 400                         | 400           | 400           | 400           | 2,000          | 1,000         |
| Members' webpage updates   | -                          | 600                  | -             | -                           | -             | -             | -             | 600            | 600           |
| Members' stationery  | 475,000                    | 3,600                | 95,000        | 95,000                      | 95,000        | 95,000        | 95,000        | 478,600        | 3,600         |
| Commission staff claims processing                                       | 400                        | 400                  | 40            | 200                         | 72            | 72            | 72            | 900            | 500           |
| <b>Sub Total Members' costs</b>  | <b>490,400</b>             | <b>33,400</b>        | <b>95,700</b> | <b>108,000</b>              | <b>96,000</b> | <b>96,000</b> | <b>96,000</b> | <b>525,100</b> | <b>34,300</b> |
|  |                            |                      |               |                             |               |               |               |                |               |
| <b>Co-ordination of name-change related activity within the Assembly</b> |                            |                      |               |                             |               |               |               |                |               |
| Staffing cost  | -                          | 5,600                | -             | -                           | -             | -             | -             | 5,600          | 5,600         |
| <b>Sub Total Co-ordination of name-change activity</b>                   | <b>-</b>                   | <b>5,600</b>         | <b>-</b>      | <b>-</b>                    | <b>-</b>      | <b>-</b>      | <b>-</b>      | <b>5,600</b>   | <b>5,600</b>  |
|  |                            |                      |               |                             |               |               |               |                |               |

|  | Total cost of option 1 (£) | Transition costs (£) | 2020-21 (£) | 2021-22 (election year) (£) | 2022-23 (£) | 2023-24 (£) | 2024-25 (£) | Total cost (£) | Net cost (£)  |
|--|----------------------------|----------------------|-------------|-----------------------------|-------------|-------------|-------------|----------------|---------------|
| <b>Communications</b>  |                            |                      |             |                             |             |             |             |                |               |
| Awareness raising  | -                          | 6,500                | -           | -                           | -           | -           | -           | 6,500          | 6,500         |
| Display Materials  | -                          | 5,300                | -           | -                           | -           | -           | -           | 5,300          | 5,300         |
| Ongoing publications   | -                          | 1,000                | -           | -                           | -           | -           | -           | 1,000          | 1,000         |
| Date-specific publications   | -                          | 12,337               | -           | -                           | -           | -           | -           | 12,300         | 12,300        |
| Updating web content/web-based publications, and internal guidance/processes | -                          | 50,000               | -           | -                           | -           | -           | -           | 50,000         | 50,000        |
| <b>Sub Total Communications</b>  | -                          | <b>75,600</b>        | -           | -                           | -           | -           | -           | <b>75,600</b>  | <b>75,600</b> |
|  |                            |                      |             |                             |             |             |             |                |               |
| <b>Physical Presence - Assembly estate</b>                                   |                            |                      |             |                             |             |             |             |                |               |
| Siambr Hywel signs: Two branded entrance signs                               | -                          | 2,500                | -           | -                           | -           | -           | -           | 2,500          | 2,500         |
| Senedd external signs, front and side  | -                          | 14,900               | -           | -                           | -           | -           | -           | 14,900         | 14,900        |
| CCTV signs across the estate   | -                          | 600                  | -           | -                           | -           | -           | -           | 600            | 600           |
| Removal of Tŷ Hywel external lettering                                       | -                          | 4,500                | -           | -                           | -           | -           | -           | 4,500          | 4,500         |
| Senedd entrance mat  | 2,400                      | 1,200                | -           | 1,200                       | -           | 1,200       | -           | 3,600          | 1,200         |
| Tŷ Hywel and Pierhead external signs   | -                          | 6,500                | -           | -                           | -           | -           | -           | 6,500          | 6,500         |

|  | <i>Total cost of option 1 (£)</i> | Transition costs (£) | 2020-21 (£)   | 2021-22 (election year) (£) | 2022-23 (£)   | 2023-24 (£)    | 2024-25 (£)   | Total cost (£) | Net cost (£)   |
|--|-----------------------------------|----------------------|---------------|-----------------------------|---------------|----------------|---------------|----------------|----------------|
| Tŷ Hywel reception waiting area signs                  | -                                 | 600                  | -             | -                           | -             | -              | -             | 600            | 600            |
| Tŷ Hywel entrance carpet                               | 10,200                            | 5,100                | -             | 5,100                       | -             | 5,100          | -             | 15,300         | 5,100          |
| Signage at Colwyn Bay office                           | -                                 | 14,900               | -             | -                           | -             | -              | -             | 14,900         | 14,900         |
| Body armour and hi-vis                                 | -                                 | 1,200                |               |                             |               |                |               | 1,200          | 1,200          |
| Remuneration Board banners                             | -                                 | 300                  | -             | -                           | -             | -              | -             | 300            | 300            |
| Staff delivery and administration                      | 1,000                             | 2,300                | -             | 500                         | -             | 500            | -             | 3,300          | 2,300          |
| <b>Sub Total Physical Presence - Assembly estate</b>   | <b>13,600</b>                     | <b>54,600</b>        | -             | <b>6,800</b>                | -             | <b>6,800</b>   | -             | <b>68,200</b>  | <b>54,600</b>  |
|  |                                   |                      |               |                             |               |                |               |                |                |
| <b>ICT</b>   |                                   |                      |               |                             |               |                |               |                |                |
| Assembly web domains                                   | 500                               | -                    | 300           | 300                         | 300           | 300            | 300           | 1,500          | 1,000          |
| SSL certificates                                       | 1,000                             | -                    | 200           | 200                         | 200           | 200            | 200           | 1,000          | 0              |
| SSL certificates staff delivery and associated changes | -                                 | 1,500                | -             | -                           | -             | -              | -             | 1,500          | 1,500          |
| <b>Sub Total ICT</b>                                   | <b>1,500</b>                      | <b>1,500</b>         | <b>500</b>    | <b>500</b>                  | <b>500</b>    | <b>500</b>     | <b>500</b>    | <b>4,000</b>   | <b>2,500</b>   |
| <b>TOTAL</b>   | <b>505,900</b>                    | <b>170,200</b>       | <b>96,200</b> | <b>115,300</b>              | <b>96,500</b> | <b>103,300</b> | <b>96,500</b> | <b>678,000</b> | <b>172,100</b> |

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### 9.3.8. Benefits and risks

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**413.** The benefit of an informal name change is that legislation would not be required, and therefore no Assembly time or resource would need to be allocated to the introduction or scrutiny of such legislation. However, staff time and resource would still be required to support the implementation of an informal name change.

**414.** Should the informal name come into common usage, then benefits would include greater clarity for the public and stakeholders about the role, purpose and powers of the institution. However, external bodies, including the media, could reasonably still choose to refer to the legal name for the Assembly rather than its new, informal name. This could undermine any benefits of a name change, resulting in increased confusion among the public about the name, purpose and powers of the institution.

**415.** If the name of the Assembly were changed informally, all existing and future legal documents (such as legislation or contracts) would have to continue to refer to the institution by its legal name: the National Assembly for Wales, as this would remain the legal name of the body.

**416.** There would be numerous risks associated with an informal change to the name of the Assembly. These are set out in the table below.

**Table 13 Risks associated with an informal change to the name of the Assembly**

| Scenario  | Risk assessment   |
|---|---|
| Informal references to “Senedd” by Members in debates, media interviews etc.    | This already happens, and may be a contributory factor in the lack of public understanding about the role of the Assembly.  |
| References in formal Welsh Government documents and statements to the “Senedd”. | Likely to give rise to confusion, as the Welsh Government would not be able to refer to the “Senedd” in legal documents, explanatory notes to Bills or statutory instruments. This could result in discrepancies between policy documents and communications, and their associated legal documents. |

|   |  |
|---|--|
| <p>Formal references to “Senedd” in Assembly business, for example in the text of motions.</p>  | <p>Likely to give rise to internal and external confusion, potentially bringing the Assembly into disrepute. Standing Orders would continue to refer to the Assembly (as would other legal documents and titles and the Assembly’s own branding). Issues would arise in relation to the admissibility of business which referred to the “Senedd”, particularly if different Assembly Members or political groups took different approaches to adopting any informal name change.</p> |
| <p>Assembly Commission branding changes incorporating the name “Senedd”, including in publications, on the website and in communications.</p> | <p>Very likely to give rise to confusion, as legal documents and formal business would continue to refer to the Assembly. Difficult to explain to the public and stakeholders why different terms were used in different contexts. Potentially subject to criticism for the use of public funds for any branding changes.</p>  |
| <p>Assembly Members referring to themselves as Members of the Senedd in publications, signage etc.</p>  | <p>Assembly Members would be likely to take different approaches to adopting any informal name change, risking confusion if they referred to themselves in different ways. The Remuneration Board would need to consider whether it was a legitimate use of allowances to fund costs arising in relation to an informal name change.</p>   |

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## 9.4. Option 3: legislate to change the name of the Assembly (preferred option)

### 9.4.1. Description

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**417.** The preferred option is for the Assembly Commission to use the powers in the *WA 2017*, and introduce legislation to formally change the Assembly’s name, and the names and titles of relevant office holders and bodies on a statutory basis.

**418.** This option would involve replacing the names “National Assembly for Wales”, “Cynulliad Cenedlaethol Cymru” and “Assembly” with “Senedd” (in both English and Welsh), and replacing “Assembly Members” and “Aelodau Cynulliad” with “Members of the Senedd,” and “Aelodau’r Senedd” respectively. This option would allow for the use of “Welsh Parliament” alongside the name “Senedd” to assist those not familiar with the Welsh word to understand the meaning of the name and also to further emphasise the constitutional status of the institution.

**419.** There would also be consequential changes to the names of:

- the National Assembly for Wales Commission;
- the names of related bodies (such as the current National Assembly for Wales Commissioner for Standards); and
- the National Assembly for Wales Remuneration Board.

**420.** This option could itself theoretically be implemented in a number of ways, each of which would have varying costs. For example, changing the name of the Assembly could have provided an opportunity for the institution to simultaneously change its logo and/or review its entire public image by undertaking a full rebranding exercise.

**421.** However, the Assembly Commission decided to only change the name of the Assembly, without a logo-change or full rebranding exercise.<sup>108</sup> As such, the estimated costs for this option do not include any costs related to logo-change or a full rebranding exercise (such as uniform and flags, which bear the Assembly’s logo, but not its name).

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<sup>108</sup> Decision taken at the meeting of the Assembly Commission held on 15 May 2017.

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#### 9.4.2. Costs and savings

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**422.** The provisions in the Bill relating to changing the name of the Assembly give rise to a range of costs. Most of these costs will be incurred by the Assembly Commission, and relate to the physical presence of the Assembly. These costs are presented under the following headings:

- **Members' costs:** costs which will be directly incurred by Members via their allowances as per the *Determination on Members' Pay and Allowances*, made by the Assembly's independent Remuneration Board.
- **Co-ordination of name-change related activities:** costs for Assembly Commission staff time spent in this regard.
- **Communications:** costs in relation to how the Assembly communicates, for example via displays, publications and web-based communications.
- **Physical presence – Assembly estate:** costs in relation to the provision of signage and furniture on the Assembly's estate.
- **ICT:** costs in relation to the provision of website, email addresses and associated digital certificates.
- **External organisations:** costs incurred by organisations other than the Assembly Commission, to alter references to the name of the Assembly (on signs and websites).

**423.** Table 14 provides an overview of all such costs for the Assembly Commission and external organisations, with details included in the following sections. The total additional cost associated with option 3 is £294,600.

**Table 14 Option 3 (legislate to change the name of the Assembly) Total costs**

|  | Total cost of option 1 (£) | Transition costs (£) | 2020-21 (£)   | 2021-22 (election year) (£) | 2022-23 (£)   | 2023-24 (£)   | 2024-25 (£)   | Total cost (£) | Net cost (£)  |
|--|----------------------------|----------------------|---------------|-----------------------------|---------------|---------------|---------------|----------------|---------------|
| <b>Members' costs</b>  |                            |                      |               |                             |               |               |               |                |               |
| Signage for Members' constituency/regional offices                       | 9,100                      | 18,900               | 300           | 7,900                       | 300           | 300           | 300           | 28,000         | 18,900        |
| Signage - Members' support staff procurement                             | 2,000                      | 3,700                | 100           | 1,600                       | 100           | 100           | 100           | 5,700          | 3,700         |
| Members' banners   | 3,300                      | 6,000                | 100           | 2,900                       | 100           | 100           | 100           | 9,300          | 6,000         |
| Members' web domains   | 1,000                      | 200                  | 200           | 400                         | 400           | 400           | 400           | 2,000          | 1,000         |
| Members' webpage updates   | -                          | 600                  | -             | -                           | -             | -             | -             | 600            | 600           |
| Members' stationery  | 475,000                    | 3,600                | 95,000        | 95,000                      | 95,000        | 95,000        | 95,000        | 478,600        | 3,600         |
| Commission staff claims processing                                       | 400                        | 400                  | 40            | 200                         | 72            | 72            | 72            | 900            | 500           |
| <b>Sub Total Members' costs</b>  | <b>490,400</b>             | <b>33,400</b>        | <b>95,700</b> | <b>108,000</b>              | <b>96,000</b> | <b>96,000</b> | <b>96,000</b> | <b>525,100</b> | <b>34,300</b> |
|  |                            |                      |               |                             |               |               |               |                |               |
| <b>Co-ordination of name-change related activity within the Assembly</b> |                            |                      |               |                             |               |               |               |                |               |
| Staffing cost  | -                          | 5,600                | -             | -                           | -             | -             | -             | 5,600          | 5,600         |
| <b>Sub Total Co-ordination of name-change activity</b>                   | <b>-</b>                   | <b>5,600</b>         | <b>-</b>      | <b>-</b>                    | <b>-</b>      | <b>-</b>      | <b>-</b>      | <b>5,600</b>   | <b>5,600</b>  |

|  | Total cost of option 1 (£) | Transition costs (£) | 2020-21 (£) | 2021-22 (election year) (£) | 2022-23 (£) | 2023-24 (£) | 2024-25 (£) | Total cost (£) | Net cost (£)  |
|--|----------------------------|----------------------|-------------|-----------------------------|-------------|-------------|-------------|----------------|---------------|
| <b>Communications</b>  |                            |                      |             |                             |             |             |             |                |               |
| Awareness raising  | -                          | 6,500                | -           | -                           | -           | -           | -           | 6,500          | 6,500         |
| Display Materials  | -                          | 5,300                | -           | -                           | -           | -           | -           | 5,300          | 5,300         |
| Ongoing publications   | -                          | 1,000                | -           | -                           | -           | -           | -           | 1,000          | 1,000         |
| Date-specific publications   | -                          | 12,337               | -           | -                           | -           | -           | -           | 12,300         | 12,300        |
| Updating web content/web-based publications, and internal guidance/processes | -                          | 50,500               | -           | -                           | -           | -           | -           | 50,500         | 50,500        |
| <b>Sub Total Communications</b>  | -                          | <b>75,600</b>        | -           | -                           | -           | -           | -           | <b>75,600</b>  | <b>75,600</b> |
|  |                            |                      |             |                             |             |             |             |                |               |
| <b>Physical Presence - Assembly estate</b>                                   |                            |                      |             |                             |             |             |             |                |               |
| Siambr Hywel signs: Two branded entrance signs                               | -                          | 2,500                | -           | -                           | -           | -           | -           | 2,500          | 2,500         |
| Senedd external signs, front and side  | -                          | 14,900               | -           | -                           | -           | -           | -           | 14,900         | 14,900        |
| CCTV signs across the estate   | -                          | 600                  | -           | -                           | -           | -           | -           | 600            | 600           |
| Removal of Tŷ Hywel external lettering                                       | -                          | 4,500                | -           | -                           | -           | -           | -           | 4,500          | 4,500         |
| Senedd entrance mat  | 2,400                      | 1,200                | -           | 1,200                       | -           | 1,200       | -           | 3,600          | 1,200         |
| Tŷ Hywel and Pierhead external signs   | -                          | 6,500                | -           | -                           | -           | -           | -           | 6,500          | 6,500         |
| Tŷ Hywel reception waiting area signs  | -                          | 600                  | -           | -                           | -           | -           | -           | 600            | 600           |
| Tŷ Hywel entrance carpet   | 10,200                     | 5,100                | -           | 5,100                       | -           | 5,100       | -           | 15,300         | 5,100         |

|  | Total cost of option 1 (£) | Transition costs (£) | 2020-21 (£)   | 2021-22 (election year) (£) | 2022-23 (£)   | 2023-24 (£)    | 2024-25 (£)   | Total cost (£) | Net cost (£)   |
|--|----------------------------|----------------------|---------------|-----------------------------|---------------|----------------|---------------|----------------|----------------|
| Signage at Colwyn Bay office                           | -                          | 14,900               | -             | -                           | -             | -              | -             | 14,900         | 14,900         |
| Body armour and hi-vis                                 | -                          | 1,200                |               |                             |               |                |               | 1,200          | 1,200          |
| Remuneration Board banners                             | -                          | 300                  | -             | -                           | -             | -              | -             | 300            | 300            |
| Staff delivery and administration                      | 1,000                      | 2,300                | -             | 500                         | -             | 500            | -             | 3,300          | 2,300          |
| <b>Sub Total Physical Presence – Assembly estate</b>   | <b>13,600</b>              | <b>54,600</b>        | <b>-</b>      | <b>6,800</b>                | <b>-</b>      | <b>6,800</b>   | <b>-</b>      | <b>68,200</b>  | <b>54,600</b>  |
|  |                            |                      |               |                             |               |                |               |                |                |
| <b>ICT</b>   |                            |                      |               |                             |               |                |               |                |                |
| Assembly web domains                                   | 500                        | -                    | 300           | 300                         | 300           | 300            | 300           | 1,500          | 1,000          |
| SSL certificates                                       | 1,000                      | -                    | 200           | 200                         | 200           | 200            | 200           | 1,000          | 0              |
| SSL certificates staff delivery and associated changes | -                          | 1,500                | -             | -                           | -             | -              | -             | 1,500          | 1,500          |
| <b>Sub Total ICT</b>                                   | <b>1,500</b>               | <b>1,500</b>         | <b>500</b>    | <b>500</b>                  | <b>500</b>    | <b>500</b>     | <b>500</b>    | <b>4,000</b>   | <b>2,500</b>   |
|  |                            |                      |               |                             |               |                |               |                |                |
| <b>Costs to external organisations</b>                 |                            |                      |               |                             |               |                |               |                |                |
| Road signage – City and County of Cardiff              | -                          | 60,000               | -             | -                           | -             | -              | -             | 60,000         | 60,000         |
| Road signage – Welsh Government                        | -                          | 42,000               | -             | -                           | -             | -              | -             | 42,000         | 42,000         |
| Website updates – all local authorities                | -                          | 20,000               | -             | -                           | -             | -              | -             | 20,000         | 20,000         |
| <b>Sub Total Costs to external organisations</b>       | <b>-</b>                   | <b>122,000</b>       | <b>-</b>      | <b>-</b>                    | <b>-</b>      | <b>-</b>       | <b>-</b>      | <b>122,000</b> | <b>122,000</b> |
| <b>TOTAL</b>   | <b>505,900</b>             | <b>292,700</b>       | <b>96,200</b> | <b>115,300</b>              | <b>96,500</b> | <b>103,300</b> | <b>96,500</b> | <b>800,500</b> | <b>294,600</b> |

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### 9.4.3. Members' costs

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**424.** These are costs which will be directly incurred by Members via their allowances under the Remuneration Board's Determination on Members' Pay and Allowances. These costs relate to the need to replace stationery, office signs, banners and, in some cases, website domain names. Estimates are based on the average costs of actual claims from Members from the beginning of the Fourth Assembly (May 2011) onwards.

**425.** Estimates include both transitional costs and ongoing costs incurred by Members. Table 15 provides an overview of the total estimated costs.

**Table 15 Name of the Assembly: option 3 Members' costs**

| Item   | Cost (£)       |
|--|----------------|
| Signage for Members' constituency/regional offices | 28,000         |
| Signage – Members' support staff procurement       | 5,700          |
| Members' banners                                   | 9,300          |
| Members' web domains                               | 2,000          |
| Members' webpage updates                           | 600            |
| Members' stationery                                | 478,600        |
| Commission staff claims administration             | 900            |
| <b>Total</b>                                       | <b>525,100</b> |

#### **9.4.3.1. Signage for Members' constituency/regional offices**

**426.** Existing Assembly Members' office signs normally include the Assembly name, along with the AM/AC suffix. As of August 2018, seven of the current 60 Assembly Members have more than one office and therefore an assumption is made that each office will need a new sign. Two of the current 60 AMs share offices (and have a joint sign).

**427.** The legal date of the Assembly's name change is scheduled to take place on 6 May 2020. This is exactly 12 months from the scheduled date of the May 2021 Assembly election. The estimates are based on the assumption that the Remuneration Board would advise Members not to make name-change related signage claims before the 2021 election.

**428.** It is also assumed that following the 2021 election all 60 Members (i.e. including both those re-elected, and those newly elected) would require a new

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sign, to reflect the Assembly's name change. Based on an average cost per sign of £400.06,<sup>109</sup> and assuming that the numbers of Members with more than one sign (i.e. multiple offices) and less than one sign (i.e. a shared office) remain at the number as of August 2018 (66 signs in total), this cost would be £26,500.<sup>110</sup>

**429.** The modelling in section 9.3.2.2 under option 1 indicated that there would be 19 "new" Members in each Assembly election, with an associated ongoing signage cost of £7,600 for election years only. By discounting this cost from the total cost of replacing signs for all Members, option 3 would therefore result in a transitional cost of £18,900.<sup>111</sup>

**430.** Thus, the total estimated cost of signage resulting from the 2021 election (£26,500) is made up of two components:

- the ongoing cost of an average of 19 new Members being elected (£7,600); and
- a transitional cost of the replacing the remaining 47 signs out of the above total of 66 (£18,900).

**431.** In modelling these costs, the following assumptions have been made:

- that no new Members will require more than one sign (although as of August 2018 seven Assembly Members had more than one office); and
- that no new Members will require less than one sign (although as of August 2018 two Assembly Members shared one office).

**432.** As with option 1, it is also assumed that there would be an additional recurrent annual signage cost (in both election years and non-election years) of £300.<sup>112</sup>

**433.** In addition, as with option 1, there would be an associated cost for Members' support staff to procure signage. The staff time cost to undertake a procurement process for a single office sign is estimated to be £78.60.<sup>113</sup> The transitional cost

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<sup>109</sup> Based on historic data on claims made in 2012-13 and 2016-17.

<sup>110</sup> Based on 66 signs x £401.25, equalling £26,482.60.

<sup>111</sup> Based on the total cost of replacing 66 signs (£26,500), subtracted by the ongoing cost of replacing 19 signs following an Assembly election (£7,600).

<sup>112</sup> See paragraph 373.

<sup>113</sup> Based on a Band 1 support staff spending 6 hours in total at an hourly rate of £13.10 liaising with suppliers, reviewing designs and organising installation.

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under option 3 is therefore estimated to be £3,700,<sup>114</sup> and the total ongoing cost for a 5-year period is estimated to be £2,000, identical to the same cost under option 1.<sup>115</sup>

**434.** The total transitional and ongoing costs for signage related costs under this option would therefore be £33,700.<sup>116</sup>

#### **9.4.3.2. Members' banners**

**435.** Banners in this context are portable bilingual signs/posters, usually bearing the Assembly name and AM/AC suffix, which are used by Members when attending/hosting events and advice surgeries. It may also be noted that some Members choose not to have banners: only 46 claims for banners were made by Members between June 2011 and June 2018.

**436.** The legal date of the Assembly's name change is scheduled to take place on 6 May 2020; 12 months from the scheduled date of the May 2021 Assembly election. It is assumed for the purpose that the Remuneration Board would advise Members not to make name-change related banner claims before the 2021 election.

**437.** However, following the 2021 election, and for the purpose of this RIA, it is assumed that all 60 Members (i.e. including both those re-elected, and those newly elected) will require a new banner, to reflect the Assembly's name change.

**438.** The cost per banner is estimated to be £145.46.<sup>117</sup> Based on the previously made assumption that there would be 19 new Members following an election, the total cost of £8,800 for 60 banners following the 2021 election would be split between an ongoing cost of £2,800 and a transitional cost of £6,000. It is however possible that these costs are likely to be lower based on the nature of banner purchases historically, as referred to above.

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<sup>114</sup> Based on £78.60 x 47 signs, equalling £3,694.

<sup>115</sup> Based on £78.60 x (6÷7.5) for each year, and an additional £78.60 x 19 for an election year, equalling £1,808 and rounded to £2,000 after taking account for the rounding approach taken for each annual cost.

<sup>116</sup> Based on the signage cost of £26,500 + (£300 x 5), in addition to the Members' support staff cost of £5,700.

<sup>117</sup> Based on 46 banner claims made between 23 June 2011 and 5 June 2018, at an average cost of £145.46.

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**439.** As with option 1, it is assumed that there would be an ongoing banner cost (in both election years and non-election years) of £100.<sup>118</sup>

**440.** The total costs for banners under this option would therefore be £9,300.<sup>119</sup>

### **9.4.3.3. Members' web domains**

**441.** Some Members' website domain names include the suffix to their name of AM or AC. It is assumed that such domain names would need to be updated to reflect a name change under option 3.

**442.** As of 24 August 2018, seven Members registered web domains, paid for through the Remuneration Board, that included the descriptor AM or AC.

**443.** For the purpose of calculating this RIA, it is estimated that each of these web domains would be replaced. However, as the number of Members requiring web domains may increase or decrease depending on Members' individual preferences, it may also be assumed that the name change will result in an increased number of Members wishing to register a web domain with their new descriptor.

**444.** For the purpose of this RIA it is therefore assumed that the number of Members requiring such a web domain would double from the 2021 election year onwards, from 7 to 14. As the annual ongoing cost of registering each of these domains is estimated to be £31.78, the total ongoing cost over a 5-year period is estimated to be £1,800.<sup>120</sup>

**445.** In addition, a transitional cost for the year where both the previous seven domains and new domains would be expected to be registered is anticipated under this option. This is estimated to be £200.<sup>121</sup> This assumption is based on a year being a reasonable amount of time to allow for the redirection of web traffic to the new websites.

**446.** The total cost for registering web domains under this option is therefore estimated to be £2,000.

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<sup>118</sup> Based on  $£145.46 \times (6 \div 7.5) = £116.37$ .

<sup>119</sup> Based on the banner cost following an Assembly election, in addition to the 5-year ongoing banner cost (in both election years and non-election years).

<sup>120</sup> Based on  $£31.78 \times 7$  for 1 year equalling £222, and  $£31.78 \times 14$  equalling £444, multiplied for 4 years.

<sup>121</sup> Based on  $£31.78 \times 7$ , equalling £222.

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**447.** It is assumed that a number of Assembly Members would also need to update the content of their websites to reflect their new titles. For the purpose of the RIA, it is assumed that Assembly Members' Support Staff (AMSS) would amend the websites, and that the updates would be completed within an hour of a staff member's time. Based on the changes being completed by a band 3 AMSS, the maximum cost of all 60 Members updating their websites is estimated to be £600.<sup>122</sup>

#### **9.4.3.4. Members' stationery**

**448.** Personalised AM stationery is produced by the Assembly's in-house print room. The stationery budget is set at £100,000 for 2018-19. Historically up to 95 per cent of this budget is spent in each financial year.

**449.** Based on the assumption that Members' use of stationery, and consequently the use of the stationery budget, remained constant, an ongoing cost over a 5-year period for producing Members' personalised stationery is estimated to be £475,000.

**450.** As a result of option 3, it is assumed that all 60 Members would require a full set of new stationery.<sup>123</sup> As of August 2018, a "set" costs around £60 per Member, therefore a transitional cost under this option is estimated to be £3,600.

**451.** The total cost under option 3 for Members' stationery would therefore be £478,600.

#### **9.4.3.5. Assembly Commission staff time for processing Members' claims**

**452.** Based on the above costs for Members' claims from their allowances as per the Remuneration Board's Determination, there would be associated costs for Assembly Commission staff time for processing and authorising those claims.

**453.** The staff time cost for processing and authorising a single claim is estimated to be £4.61.<sup>124</sup>

**454.** In line with the formulae used in the above sections, the associated transitional cost for processing claims for signage for Members'

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<sup>122</sup> Based on the hourly cost of £9.90 x 60 = £594.

<sup>123</sup> As of August 2018, a set includes 1,000 letterheads, 100 business cards, two A5 notepads and 150 compliment slips.

<sup>124</sup> Based on a Team Support working spending 15 minutes processing a claim, and a Management Band 3 spending 5 minutes authorising the claim.

constituency/regional offices under this option is estimated to be £216.67,<sup>125</sup> and the ongoing cost is estimated to be £105.98.<sup>126</sup>

**455.** The associated transitional cost for processing claims for Members' banners is estimated to be £189.01,<sup>127</sup> and the ongoing cost is estimated to be £105.98<sup>128</sup>.

**456.** The associated transitional cost for processing claims for Members' web domains is estimated to be £32.27,<sup>129</sup> and the ongoing cost is estimated to be £290.43<sup>130</sup>.

**457.** The total transitional and ongoing costs for Assembly Commission staff time for processing Members' claims is therefore estimated to be £900.

#### 9.4.4. Co-ordination of name-change related activity within the Assembly Commission

**458.** The implementation of changing the Assembly's name is likely to require management and co-ordination. Table 16 provides an estimate of the staff time transitional cost for this project management role.

**Table 16 Name of the Assembly: option 3 Co-ordination of activity within the Assembly Commission**

| Grade             | Time (in days) | Staffing cost (£) |
|-------------------|----------------|-------------------|
| Executive Band 1  | 2              | 700               |
| Executive Band 2  | 10             | 2,800             |
| Management Band 1 | 4              | 800               |
| Management Band 2 | 8              | 1,300             |
| <b>Total</b>      | <b>24</b>      | <b>5,600</b>      |

<sup>125</sup> Based on £4.61 x 47 signage claims.

<sup>126</sup> Based on £4.61 x (6÷7.5) for each year, and an additional £4.61 x 19 for an election year.

<sup>127</sup> Based on £4.61 x 41 banner claims.

<sup>128</sup> Based on £4.61 x (6÷7.5) for each year, and an additional £4.61 x 19 for an election year.

<sup>129</sup> Based on £4.61 x 7 claims.

<sup>130</sup> Based on £4.61 x 7 claims for each year, increasing to 14 from an election year onwards.

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#### 9.4.5. Communications

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**459.** It is anticipated that the Assembly Commission would undertake media and communications activities to raise awareness of the change to the name of the Assembly.

**460.** Moreover, the Assembly name appears across all communication materials produced by the organisation, both for internal use and for the wider purpose of engaging the people of Wales in its work. As a result, such materials would need to be updated to reflect the Assembly's name changing. Estimates here include ways in which the Assembly communicates and presents its overall image both internally and externally.

**461.** Costs in relation to communications are included in five broad categories:

- **Awareness raising:** It is anticipated that the Assembly Commission would undertake media and communications activities to raise awareness of the change to the name of the Assembly.
- **Display materials:** These include bespoke display and exhibition materials, including Foamex panels, pop up banners and display stand Isoframe skins.
- **Ongoing publications:** These are maintained, ongoing publications, which typically explain the role of the Assembly. For example, *Petitioning the Assembly*.<sup>131</sup> Such publications are normally produced in a range of formats, including British Sign Language (BSL), multilingual formats and easy to read formats, and are produced in hard-copy for substantial distribution to the public.
- **“Date-specific” publications:** The majority of the Assembly's publications (e.g. committee reports and Research Service publications) have a particular date associated with their publication. “Date-specific” publications that were published prior to the legal change of the Assembly's name would continue to refer to the Assembly – they would not be changed retrospectively. Instead, following the legal name change, all new publications would be issued incorporating the new name, with appropriate templates established to facilitate such.
- **Web content/Wed-based publications.** The Assembly's website is both large and dynamic. “Historic” content on the website (e.g. completed

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<sup>131</sup> National Assembly for Wales Commission, *Petitioning the Assembly*

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committee inquiries) would not incorporate the Assembly’s new name, but any “live” content (e.g. ongoing committee inquiries, pages explaining the role and functions of the Assembly, recruitment pages) would be updated with the new name. For the purpose of this RIA, this category also includes ongoing publications which technically can be produced in hard copy, but are not routinely produced in significant volume (for example, the Guide to the Scrutiny Stages for Public Bills<sup>132</sup>) and as such are more routinely accessed via the internet. The costs identified in this category also incorporate the production of any Easy Read related changes.

**462.** Cost estimates are based on either previous actual costs from external providers or estimates of the staff time involved in delivering changes to communications materials.

#### **9.4.5.1. Awareness raising**

**463.** It is anticipated that the Assembly would conduct awareness raising activity ahead of, and in conjunction with, its name changing. Staff time estimates associated with such work are detailed in Table 17.

**Table 17 Name of the Assembly: option 3 Awareness raising**

| Staff grade       | Time (in days) | Cost (£)     |
|-------------------|----------------|--------------|
| Executive Band 2  | 10             | 2,800        |
| Management Band 1 | 10             | 2,100        |
| Management Band 2 | 10             | 1,600        |
| <b>Total</b>      | <b>30</b>      | <b>6,500</b> |

#### **9.4.5.2. Display materials**

**464.** The Assembly Commission owns a range of display materials, including Foamex panels, pop-up banners, display stand “ISOframe skins”, which would all need to be replaced under option 3.

**465.** Foamex panels are PVC foam sheets that can be printed upon. They are used to make signage, banners and exhibition display panels. Only one panel is currently in use (in Siambr Hywel). The cost of replacing the panel is estimated to be £100, based on the cost of its purchase in May 2016.

<sup>132</sup> National Assembly for Wales Commission, [Guide to the Scrutiny Stages for Public Bills](#)

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**466.** “Pop ups” are roll-up banners which display the Assembly’s name. The Assembly Commission currently owns 17 such banners, each with a cartridge base, which could be re-used with an alternate banner (i.e. only the roll-up banners themselves would need to be replaced in the event of a name change). The cost of replacing one pop-up is estimated to be £112.05, based on a purchase in July 2016. Therefore the cost of replacing all 17 pop-ups is estimated to be £1,900.<sup>133</sup>

**467.** The Assembly Commission also owns two flexible “ISOframe” self-build exhibition stands.<sup>134</sup> The two stands can be used individually, or interconnected, and are frequently used to construct a large display stand in the Senedd and at events. The cost of replacing one pop-up is estimated to be £1187.37, based on a purchase in July 2015. Therefore, the total cost of replacing both is estimated to be £2,400.

**468.** There are also a number of display panels in the Pierhead which would need replacing at an estimated cost of £1,000.

**469.** The total transitional cost of replacing display materials is therefore estimated to be £5,300.

### **9.4.5.3. Ongoing publications**

**470.** The Assembly Commission is responsible for a range of “ongoing publications”. These are maintained, ongoing publications, which typically explain the role of the Assembly, and are produced in hard-copy for substantial distribution to the public.

**471.** For the purpose of this RIA it is assumed that none of these ongoing publications will be replaced to incorporate the new name until current stock at the time of the name change has been depleted. Under option 3, therefore, there would be no transitional costs associated to the publication of ongoing publications except that of updating their content, as set out in section 9.4.5.5.

**472.** However, option 3 will result in some limited additional transitional costs, as these publications are published in a range of formats, including British Sign Language (BSL) and multi-lingual formats. The costs associated with updating the publications in these specified formats are set out in the table below.

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<sup>133</sup> Based on £112.05 x 17 = £1,904.91

<sup>134</sup> ISOframe stands can be adapted to the space they are located in, and which can be accessorised with tables, shelves, slat-walls, media screens etc.

**Table 18 Option 3 costs associated with updating BSL and multilingual versions of materials**

| Format                | Cost (£) |
|-----------------------|----------|
| BSL format            | 400      |
| Multi-lingual formats | 600      |
| Total                 | 1000     |

**473.** The estimate of BSL-related costs is based upon historic data, associated with the previous cost of producing BSL versions of materials (specifically a series of short videos preceding the 2016 Assembly election), and an assumption that the work involved in updating the A5 booklets and posters will be at most around 3 hours.

**474.** The estimate of producing these ongoing publications in multi-lingual formats reflects that while the Assembly works in both English and Welsh, these particular publications are also produced in a further eight languages. The estimate shown in Table 18 is based on the historic costs of similar work conducted by an external provider (£70 per 1000 words per language) to translate three core publications ahead of 2016 election campaign. Assuming only updates to the existing translations were required, the total changes to all the publications would not exceed 1,000 words in total for each of the eight languages, and the maximum cost would therefore be £600. In practice, the actual cost of producing publications in eight further languages may be lower, reflecting that a different fee might be negotiated to reflect that the majority of changes to the leaflets would be identical (i.e. the name would be changing, but not significant content). However, for the purpose of this RIA this cost is assumed to be £600.

**475.** An estimate of producing Easy Read versions of the publications has not been made under this section, as it is assumed that updating the existing versions of Easy Read to reflect the new name (rather than any more substantial changes in terms of text) can be done “in-house” by Assembly Commission staff. As such it is incorporated into section 9.4.5.5.

#### **9.4.5.4. Date-specific publications**

**476.** The majority of the Assembly’s publications (e.g. committee reports and Research Service publications) have a particular date associated with their publication. Date-specific publications that were published prior to the legal change of the Assembly’s name would continue to refer to the Assembly – they would not be changed retrospectively. Instead, following the legal name change, all new publications would be issued incorporating the new name, with templates updated accordingly.

**477.** Table 19 sets out the estimated transitional cost of updating templates and quality assure the design of date-specific publications.

**Table 19 Transitional costs of updating templates for publications**

| Staff grade              | Staff time (in days) | Cost (£)      |
|--------------------------|----------------------|---------------|
| Management Band 2        | 10                   | 1,600         |
| Management Band 3        | 0.3                  | 37            |
| Team Support             | 7.2                  | 700           |
| External Consultant cost | N/A                  | 10,000        |
| <b>Total</b>             | <b>17.5</b>          | <b>12,300</b> |

**478.** The following templates would be updated as part of this process:

- Page templates for the Assembly website;
- Internal brand guidelines and style guides;
- Committee agenda, minute and report templates and other branded materials (e.g. business cards);
- Content for Senedd screens;
- Committee Form updates (e.g. Witness Expenses Claims, Witness feedback survey);
- Internal Word and InDesign templates.

**479.** The total staff time cost for updating these templates, as detailed in Table 19, is estimated to be £2,300 (i.e. the total cost of internal Commission staff time including Management Band 2, Management Band 3 and Team Support).

**480.** In addition, it is assumed that an external design consultant would be contracted to oversee and quality assure the designing of new templates. This cost is estimated to be £10,000 as shown in Table 19.

#### **9.4.5.5. Updating web content/web-based publications, and internal guidance/processes**

**481.** The Assembly’s website includes both historic and live content (for example, ongoing committee inquiries). Under option 3, only live content would require updating.

**482.** There would also be other web-based publications and internal guidance and processes which would require updating. Table 20 sets out the estimated transitional cost of the overall staff time spent updating these.

**Table 20 Estimated transitional cost of staff time to update web-based publications and internal guidance and processes**

| Staff grade                | Time (in days) | Cost (£)      |
|----------------------------|----------------|---------------|
| Executive Band 2 and above | 15             | 3,100         |
| Management Band 1          | 6              | 1,300         |
| Management Band 2          | 194            | 31,900        |
| Management Band 3          | 46             | 5,800         |
| Team Support               | 86.5           | 8,000         |
| External contractor        | 0.5            | 400           |
| <b>TOTAL</b>               | <b>348</b>     | <b>50,500</b> |

**483.** Some website changes will be performed on its overall structure, but many will need to be performed upon individual webpages. The majority of changes will be to textual content, but images that feature the name of the Assembly will also need replacing, along with appropriate alternative text (for use by screen-reader technologies). Likewise, some page titles and interactive menu options will require updates.

**484.** Although historic content would not directly incorporate the new name, a limited amount of staff time would still be focussed on handling issues associated with the existence of historic pages. For example, a wide range of historic webpages (for example individual Assembly Member profiles from previous Assembly terms) would currently link to a page outlining Assembly Member Roles and Responsibilities.<sup>135</sup> If the content of this page was updated to become “*Member of the Senedd: Roles and Responsibilities*”, the links from historic pages might no longer be fit for purpose (for example, it would be inaccurate to link to such a page from the profile of a Member of the first Assembly). Instead, the links would need to direct users to a page that set out what Assembly Member roles and responsibilities were, and by association provided an explanation of when Assembly Members became Members of the Senedd.

<sup>135</sup> [www.assembly.wales/en/memhome/mem-role-response/Pages/mem-role-response.aspx](http://www.assembly.wales/en/memhome/mem-role-response/Pages/mem-role-response.aspx)

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**485.** For the purpose of this RIA, this category also includes ongoing publications other than for BSL and multilingual formats as detailed in section 9.4.5.3. The costs identified in this category also incorporate the production of any changes for Easy Read versions of ongoing publications.

**486.** This category also encompasses:

- Updates to internal guidance;
- Updates to the Library Catalogue and Management System (for example user e-mail addresses);
- Electronic Subscription changes;
- Updates to distribution lists;
- Updating external contractors to the legal effect of the name change;
- Alerting external contacts about changes to names and email addresses,
- Updating Student/Fellowship agreements and Brexit Framework agreements;
- Updates to Maps;
- Updates to Legislation drafting software;
- Updates to Table Office System;
- Updates to Easy Read versions of publications;
- Updates to Standing Orders; and
- All associated translation tasks.

**487.** Although Table 20 represents staff time estimates as a collective total, it should be noted that in practice these tasks would be done by multiple people. For example, a wide range of staff from different service areas would be involved in updating the Assembly's website pages.

**488.** In practice, it is assumed that the majority of these costs will not require additional funding as they will be absorbed as part of day-to-day processes, existing budgets, or otherwise through re-prioritisation of other work.

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#### 9.4.6. Physical presence – Assembly estate

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**489.** Option 3 would require changing the physical presence of the name of the Assembly on the Assembly estate. Table 21 sets out a breakdown of the estimated ongoing and transitional costs for replacing signs and fittings which bear the name of the Assembly.

**Table 21 Estimated total costs of replacing signs and fittings which bear the name of the Assembly**

| Signage                                   | Cost (£)      |
|---|---------------|
| Siambwr Hywel: Two branded entrance signs | 2,500         |
| Senedd external signs, front and side     | 14,900        |
| CCTV signs across the estate              | 600           |
| Removal of Tŷ Hywel external lettering    | 4,500         |
| Senedd entrance mat                       | 3,600         |
| Tŷ Hywel and Pierhead external signs      | 6,500         |
| Tŷ Hywel reception waiting area signs     | 600           |
| Tŷ Hywel entrance carpet                  | 15,300        |
| Signage at Colwyn Bay office              | 14,900        |
| Body armour and hi-vis                    | 1,200         |
| Remuneration Board banners                | 300           |
| Staff delivery and administration         | 3,300         |
| <b>Total</b>                              | <b>68,200</b> |

**490.** The costs included in the table are predominantly transitional costs, except for two instances of added ongoing costs in relation to the replacement of mats and carpets.

**491.** As with option 1, based on purchases of replacement carpets made in 2013-14 and 2016-17, it is assumed that replacement carpets will be purchased twice in a five-year period. Based on the cost of these purchases, the cost over this period is estimated to be £10,200.<sup>136</sup>

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<sup>136</sup> Based on an average cost of the purchases as £5,116.27, after adjusting for inflation.

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**492.** In line with this assumption, it is also assumed that replacement entrance mats will also be purchased twice in a five-year period. Based on a purchase in 2018-19, the total cost over this period is estimated to be £2,400.<sup>137</sup>

**493.** The total ongoing costs for carpets and mats replacement under this option would therefore be £12,600.

**494.** Security staff uniforms would not need replacing in their entirety as they only contain the Assembly's logo. However, each security officer is supplied with two sets of Velcro badges which include the Assembly's name (one for the body armour vest and one for the high-visibility outer garment). The cost of replacing these has been estimated at £1,200 (based on £18 per set of garments for 65 uniforms).

**495.** The name of the National Assembly for Wales Remuneration Board would be changed under option 3. In practice, this would require replacing two pop-up banners at an estimated cost of £300.

**496.** There are further anticipated transitional costs, in relation to Assembly staff time involved in delivering physical changes, encompassing activities such as liaison with suppliers, obtaining proofs, agreeing timescales, updating Member nameplates, and delivering installation. There would also be staff time involved for updating the Remuneration Board's website, templates and associated literature. The total transitional staff time cost for these activities is estimated to be £2,300.<sup>138</sup>

**497.** The total ongoing cost for staff time over a 5-year period is estimated to be £1000,<sup>139</sup> specifically in relation to the purchases of mats and carpets twice in a 5-year period. As indicated under option 1, staff activity would involve liaison with suppliers, obtaining proofs, agreeing timescales and delivering installation.

#### 9.4.7. ICT

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**498.** Option 3 would necessitate changes to the Assembly's website domain names: assembly.wales and cynulliad.cymru. Costs resulting from these changes are detailed in Table 22.

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<sup>137</sup> Based on the purchase cost of £1,200.

<sup>138</sup> Based on a 6.2 days of an Management Band 2, 8 days of an Management Band 3, and 3 days of a Team Support, equalling £2,298.50.

<sup>139</sup> Based on a Management Band 3 spending 3 days at a cost of £373, and a Management Band 2 spending 0.5 days at a cost of £82, equalling £455.53, rounded up to the nearest £100 and multiplied by 2 years.

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**Table 22 Costs resulting from changes to the Assembly's website domain names**

|  | Transitional cost (£) | Total ongoing cost (over a five-year period) (£) |
|--|-----------------------|--|
| Assembly website web domains                           | -                     | 1500   |
| SSL certificates                                       | -                     | 1000   |
| SSL certificates staff delivery and associated changes | 1,500                 | -  |
| <b>Total</b>   | <b>1,500</b>          | <b>2,500</b>                                     |
|  |                       | <b>4,000</b>                                     |

**499.** Currently, the UK Parliament holds the rights to the domain names *senedd.wales* and *senedd.cymru* (along with *parliament.wales* and *parliament.cymru*). Discussions are ongoing between the Assembly Commission and the UK Parliament for the transfer of these domains to the National Assembly.

**500.** There is no cost associated with the transfer, other than the ongoing cost of registering the four new domains, estimated at £200 per year (£50 per domain). It is assumed that there would also be a cost of continuing to register the existing two domains at a cost of £100 per year (£50 per domain), to allow website traffic and emails to be redirected from the “old” to the “new” domains and associated email addresses.

**501.** The total ongoing cost for registering the total of six web domains over a 5-year period would therefore be £1,500.

**502.** The Assembly Commission is required to secure the appropriate SSL security certificates (required to encrypt certain web services which collects personal data) for all associated websites. Additional ongoing costs will not be incurred as a result of option 3 as the cost of the new certificates displaces the cost of the certificates for the existing domains. As such, this cost is estimated to be £200 per year for option 3 (as per option 1).

**503.** Staff time would also be required for the work of preparing the various systems, updating e-mail addresses, procuring security certificates etc. This is estimated to be £600,<sup>140</sup> which is based on the Assembly Commission having

<sup>140</sup> Based on a Management Band 1 working three days, equalling £634.62.

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previously run a domain name change project when the Assembly moved from [www.assemblywales.org](http://www.assemblywales.org) to [www.assembly.wales](http://www.assembly.wales) in 2015.

**504.** A further staff time cost of £900<sup>141</sup> has been identified as required for the purpose of making consequential changes to systems as a result of securing the appropriate SSL security certificates, and other work associated with the domain name change, such as the provision of guidance and advice on e-mail address changes (including shared mailboxes), and re-registration of Member devices.

#### 9.4.8. Costs to other organisations

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**505.** Under option 3, other organisations will also need to make changes that would incur transition costs. These costs are summarised in Table 23, and detailed below.

**Table 23 – Estimated total costs to other organisations as a result of a name change**

| Cost                                      | Amount (£)     |
|---|----------------|
| Road signage – Welsh Government           | 42,000         |
| Road signage – City and County of Cardiff | 60,000         |
| Website updates – all local authorities   | 20,000         |
| <b>Total</b>                              | <b>122,000</b> |

**506.** Highway signage directing traffic to the National Assembly in Cardiff Bay would need to be replaced. The cost of this is estimated to be £60,000 for signage on roads for which the City and County of Cardiff is the highways authority, and an estimated maximum of £42,000 for signage on roads for which the Welsh Government is the highways authority. This estimated maximum sum for the Welsh Government is based on the design of two signs, the fulfilment of statutory requirements in respect of the Design Manual for Roads and Bridges, the manufacture of new sign faces, the supply and installation of new posts, the excavation and provision of new foundation, and traffic management. However, as the current condition of the current signs' posts and faces is unknown, this maximum cost may not need to be borne out in full. There is no signage currently directing traffic to the National Assembly's building in Colwyn Bay.

**507.** Local authorities include references to the National Assembly or to Assembly Members on their websites. It is expected that only references on live pages, rather

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<sup>141</sup> Based on a Management Band 2 working four days (£666.76), and a Team Support working two days (£189.91).

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than archived pages and documents will need to be amended in the event of a name change. These references are limited to guidance on elections, search functions for citizens' elected representatives, and appeals processes such as planning appeals. Based on information provided by local authorities, it is estimated that the total staff time cost for amending such references would be £20,000 for all 22 local authorities.

**508.** The Welsh Government has indicated that amendments to its websites and internal guidance to reflect a name change would have a zero staff time cost as the work involved will be programmed into officials' and teams' work plans alongside their other duties, without having to deprioritise work. For the purpose of this RIA, the cost for the Welsh Government to undertake such work is unknown.

**509.** The Electoral Commission produce materials in relation to Assembly elections. The Commission has indicated that any additional costs resulting from a change in the Assembly's name would be negligible, as materials are produced on a bespoke basis for the relevant election. For the purpose of this RIA, this cost is unknown.

**510.** It is assumed that the current postcode for the National Assembly, CF99 1NA, would need to be amended to remove the reference to the National Assembly (NA). The Royal Mail has indicated that the administrative cost for it will be negligible, with a similar negligible cost for organisations to update their Postcode Address File to include the new postcode. For the purpose of this RIA, therefore, the exact cost is unknown.

## 9.5. Benefits and risks

**511.** Changing the Assembly's name would give rise to benefits in terms of public understanding of the role, responsibilities and powers of the institution, and its place in the UK's constitutional landscape. This is particularly important as the constitutional environment develops post-Brexit.

**512.** Any name change (i.e. options 2 and 3) will involve a financial cost, mainly related to the physical Assembly presence such as signs and communication materials. Although the costs associated with option 2 are lower than those associated with option 3, option 2 also has higher risks in terms of the potential for public confusion.

**513.** Consequently, option 3 is the preferred option, enabling a measured and systematic approach to be undertaken with due diligence.

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## 9.6. Summary and preferred option

**514.** In summary, the options considered are:

- Option 1: do nothing. Retain the Assembly's current name. This would incur no additional costs or savings, but would fail to achieve the benefits of greater public understanding of the role, responsibilities and powers of the institution.
- Option 2: change the name of the institution informally, without legislation. This would incur similar costs to a legislative change of name, and could achieve similar benefits in terms of public understanding. However it carries greater risk of public confusion if the new, informal name were not widely used.
- Option 3: legislate to change the name of the Assembly. This option would be most likely to achieve the objective of enhancing public understanding of the institution and its role, while minimising the risk of legal challenge.

**515.** The Assembly Commission agreed in May 2017 that its preferred option was option 3: using the powers in the *WA 2017* to formally and legally change the name of the institution, with associated changes to the names and titles of relevant office holders and bodies.

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## 10. Cost assessment of changing the minimum voting age for Assembly elections

### 10.1. Options

**516.** In drafting this Regulatory Impact Assessment, two options have been considered:

- Option 1 – Do nothing to change the voting age;
- Option 2 – Include legal provisions in the Bill to reduce the voting age for Assembly elections to 16.

### 10.2. Option 1: No change to voting age

#### 10.2.1. Description

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**517.** Option 1 would introduce no change. The franchise would continue to exist in its current form and function.

#### 10.2.2. Costs

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**518.** Elections cost money. The Electoral Commission’s Report on the National Assembly for Wales general election 5 May 2011 details that:

“The Welsh Government meets the costs of local Returning Officers in delivering the election. Although the actual costs of Returning Officers are not yet known, since the Welsh Government has set a deadline of 5 January 2012 for the submission of accounts, the maximum recoverable amount for all 40 constituencies and 5 electoral regions is £4.7 million. The Welsh Government also met the costs of Royal Mail, almost £3.4 million, in delivering over 16.5 million freepost election communications from candidates and political parties.”<sup>142</sup>

**519.** However, 16- and 17-year olds do not currently have the right to vote in Assembly elections, and as such the existing cost associated with 16- and 17-year

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<sup>142</sup> Electoral Commission, Report on the National Assembly for Wales general election 5 May 2011, published October 2011, page 7. An Electoral Commission report on the 2016 National Assembly for Wales General Election did not contain specific costs, but noted its correspondence with the Welsh Government asking that the Accounting Officer responsible for funding elections to the National Assembly for Wales should consider publishing clear information on the costs of future polls.

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olds' participation in Assembly elections is £0. No costs have been identified with maintaining this position, and therefore the existing cost associated with this option is £0.

**Table 24 Option 1 costs associated with 16- and 17-year olds not voting in Assembly elections**

| Organisation         | Amount (£) |
|----------------------|------------|
| Assembly Commission  | 0          |
| Electoral Commission | 0          |
| Local authorities    | 0          |
| Welsh Government     | 0          |
| <b>Total</b>         | <b>0</b>   |

### 10.2.2.1. Cost to the Assembly Commission

**520.** For context, items of expenditure which relate specifically to election activity are funded from the Assembly Commission's "Election costs" budget. This is an additional amount the Commission receives from the Welsh Consolidated Fund (WCF) in the financial year before an election and in the financial year of an election. These amounts are ring-fenced: any amounts not used for election related items are not drawn from the WCF and are not used for other Commission related expenditure.

**521.** In 2015-16, the financial year before the last Assembly elections, an amount of £500,000 for election costs was approved by the Assembly and included within the Commission's budget for that year. Of this amount £427,000 was spent on election related activity.

**522.** However, as 16- and 17-year olds do not have the right to vote, it cannot be said that any of this expenditure is directly related to 16- and 17-year olds voting. For the purpose of this RIA, this cost is therefore represented as £0.

**523.** Option 1 would introduce no additional costs to the Assembly Commission.

### 10.2.2.2. Cost to the Electoral Commission, local government and the Welsh Government

**524.** It is anticipated that the *Local Government and Elections (Wales) Bill* will introduce an extension to the franchise for 16- and 17-year olds in respect of local government elections. In the event that option 1 was pursued, but the Local Government and Elections (Wales) Bill was passed, the registration costs for local

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government electors would remain as set out in option 2 below. These will also be detailed in the Explanatory Memorandum for the Local Government and Elections (Wales) Bill.

**525.** For the purpose of this RIA, this cost is therefore represented as £0.

### **10.2.2.3. Summary of costs**

**526.** As 16- and 17-year olds do not currently have the right to vote in Assembly elections, the existing cost associated with this option is £0.

**527.** There will be no additional costs to the Assembly Commission, the Electoral Commission, local authorities nor to the Welsh Government.

### 10.2.3. Benefits

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**528.** Option 1 would introduce no additional benefits for young people under the age of 18.

## 10.3. Option 2 – Introduce provisions to lower the voting age for Assembly elections to 16

### 10.3.1. Description

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**529.** A reduction of the minimum voting age for Assembly elections to 16.

**530.** With most of the 16- and 17-year old cohort being in school, it makes them far more exposed to some form of political education than was the case in previous generations. Use of social media and electronic media sites is also high amongst this age group. Evidence from the Scottish Referendum of 2014 suggests that there is already a high level of political interest amongst this age group.<sup>143</sup>

**531.** Citizenship and political education are important parts of the curriculum and learners currently have the opportunity to study politics and current affairs through Personal and Social Education (PSE), Education for Sustainable Development and Global Citizenship and the new Welsh Baccalaureate. It is anticipated that knowledge related to elections will be taught before young

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<sup>143</sup> Reflected by the higher turnout of 16-17 year olds in the 2014 Scotland Referendum (75 per cent turnout), compared to turnout of 18-24 year olds (54 per cent turnout). Electoral Commission, *Scottish Independence Referendum: Report on the Referendum Held on 18 September 2014*, December 2014.

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people turn 16 (thereby not adding additional pressure while young people are taking exams).

**532.** There will also be young people who are not in education, employment or training. In preparation for the Scottish Referendum, the Electoral Commission prepared educational awareness raising material which was made available to all young people and the adults who work with them. A similar approach will be taken in Wales. It will be important to ensure awareness raising and educational campaigns consider how to ensure harder to reach groups are encouraged to register but also understand their rights and have access to the same information as all other young people.

**533.** The overall costs associated with this option (over a five-year period) are presented in Table 25.

**Table 25 Option 2 - Introduce provisions to reduce the voting age for Assembly elections to 16 Total costs**

|  | Transition costs (£) | 2020-21 (£)   | 2021-22 (election year) (£) | 2022-23 (£)   | 2023-24 (£)   | 2024-25 (£)   | Total cost (£)   |
|--|----------------------|---------------|-----------------------------|---------------|---------------|---------------|------------------|
| <b>Costs to local authorities</b>                        |                      |               |                             |               |               |               |                  |
| Registering 16- and 17-year-old electors                 | -                    | 84,200        | 84,200                      | 84,200        | 84,200        | 84,200        | 421,000          |
| Updating the Electoral Management Systems (EMS) software | 636,300              | -             | -                           | -             | -             | -             | 636,300          |
| Awareness raising  | 866,200              | -             | -                           | -             | -             | -             | 866,200          |
| <b>Total</b>   | <b>1,502,500</b>     | <b>84,200</b> | <b>84,200</b>               | <b>84,200</b> | <b>84,200</b> | <b>84,200</b> | <b>1,923,500</b> |
|  |                      |               |                             |               |               |               |                  |
| <b>Costs to the Welsh Government</b>                     |                      |               |                             |               |               |               |                  |
| Increased costs per elector                              | -                    | -             | 153,900                     | -             | -             | -             | 153,900          |
| Updating the IER service                                 | 21,200               | -             | -                           | -             | -             | -             | 21,200           |
| <b>Total</b>   | <b>21,200</b>        | <b>-</b>      | <b>153,900</b>              | <b>-</b>      | <b>-</b>      | <b>-</b>      | <b>175,100</b>   |
|  |                      |               |                             |               |               |               |                  |

|  |                  |               |                |               |               |               |                  |
|--|------------------|---------------|----------------|---------------|---------------|---------------|------------------|
| <b>Costs to the Electoral Commission</b> |                  |               |                |               |               |               |                  |
| Awareness raising                        | 75,900           | -             | -              | -             | -             | -             | 75,900           |
| Design of new registration forms         | 37,100           | -             | -              | -             | -             | -             | 37,100           |
| User testing of new registration forms   | 42,400           | -             | -              | -             | -             | -             | 42,400           |
| <b>Total</b>                             | <b>155,400</b>   | <b>-</b>      | <b>-</b>       | <b>-</b>      | <b>-</b>      | <b>-</b>      | <b>155,400</b>   |
|  |                  |               |                |               |               |               |                  |
| <b>Costs to the Assembly Commission</b>  |                  |               |                |               |               |               |                  |
| Promotion and awareness raising          | 150,000          | -             | -              | -             | -             | -             | 150,000          |
| <b>Total</b>                             | <b>150,000</b>   | <b>-</b>      | <b>-</b>       | <b>-</b>      | <b>-</b>      | <b>-</b>      | <b>150,000</b>   |
| <b>TOTAL</b>                             | <b>1,829,100</b> | <b>84,200</b> | <b>238,100</b> | <b>84,200</b> | <b>84,200</b> | <b>84,200</b> | <b>2,404,000</b> |

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### 10.3.1.1.Costs to local authorities

**534.** Proposals to enfranchise 16- and 17-year olds will result in increased expenditure. Costs for local government have been identified in relation to:

- Registering 16- and 17-year olds;
- Updating local authority Electoral Management Systems (EMS); and
- Awareness raising.

#### *Registering 16- and 17-year olds*

**535.** Proposals to enfranchise 16- and 17-year olds living in Wales will result in increased expenditure for local authorities in terms of the costs of registering an additional number of people.

**536.** Registration costs are ongoing, year on year costs. *The cost of electoral administration in Great Britain: Financial information surveys 2009-10 and 2010-11*<sup>144</sup> indicates that registration spend per elector, split during canvass and outside of canvass for 2010-11 was £1.17 and £0.96 per voter respectively. This figure includes a wide range of costs such as the core registration team, design and printing, mail costs, canvassing and compilation of the register. More up to date figures are not available, therefore after accounting for inflation the average cost of £1.07 is updated to £1.22.

**537.** According to the Office of National Statistics Population Estimates (2017) there were 69,029 16- and 17-year olds in Wales in mid-year 2017.<sup>145</sup> For the purpose of this RIA, it is assumed that there would be a similar number of 16- and 17-year olds in Wales when the provisions of this Bill take effect. Registration of this newly enfranchised group would therefore increase annual registration costs for Wales by approximately £84,200.<sup>146</sup> Over five years, this would be a total additional cost of £421,000.

**538.** These registration costs would be accommodated by the 22 local authorities in Wales. These costs set out below are also included in the supporting documentation for the forthcoming *Local Government and Elections (Wales) Bill*. The register of local government electors determines who can vote in Assembly

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<sup>144</sup> [The Electoral Commission, The cost of electoral administration in Great Britain: Financial information surveys 2009-10 and 2010-11, December 2012](#)

<sup>145</sup> [Welsh Government, National level population estimates by year, age and UK country \[Accessed November 2018\]](#)

<sup>146</sup> Based on £69,029 x £1.22, equalling £84,215.38.

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elections and local government is responsible for the additional costs associated with registering the extension to the electorate.

### *Electoral Management Systems (EMS) Software*

**539.** Each local authority contracts a software company to provide the software for the Electoral Register. This is referred to as the Electoral Management System (EMS). The 22 local authorities work with three software companies, all of which would need to introduce changes to their software necessary for registration officers to meet the new responsibilities introduced by this Bill.<sup>147</sup> The updating of the EMS systems would incur a one-off cost to local authorities which would be accommodated by local authorities.

**540.** Exact costs for the changes are not yet available but the Explanatory Notes prepared for the *Scottish Elections (Reduction of Voting Age) Bill* indicated that costs to update EMS software would be in the region of £400,000 to £600,000 to accommodate changes to the franchise.<sup>148</sup> After accounting for inflation, this cost is now estimated to be between £424,200 and £636,300.

**541.** Although Wales has a lower population than Scotland, it is not anticipated that the cost of updating the software in Wales will be significantly less than it was in Scotland.

**542.** For the purposes of this RIA, it is therefore assumed that the costs associated with updating the EMS software would be a maximum of £636,300.

### *Awareness Raising*

**543.** The forthcoming *Local Government and Elections (Wales) Bill* includes provisions to place a duty on local authorities to promote awareness among relevant young people of the arrangements for electoral registration that apply to them and to assist them to register.

**544.** It is understood that the Welsh Government is exploring whether any additional funding could be made available for this purpose. However, for the purposes of this RIA, it has been estimated that each local authority would deploy one half time officer for this purpose and allocate a modest working budget of £10,000 (see Table 26).

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<sup>147</sup> For example, protecting information about young people under the age of 16 or separating the appropriate register for each election.

<sup>148</sup> Scottish Parliament, *Scottish Elections (Reduction of Voting Age) Bill: Explanatory Notes (and other accompanying documents)*, April 2015, paragraph 29

**Table 26 Local government costs (per local authority) for awareness raising with young people regarding electoral registration and support to register**

| Cost   | Amount (£) |
|--|------------|
| Local authority officer equivalent of civil service grade Management Band 1 (0.5 FTE) <sup>149</sup> | 29,400     |
| Budget for events and materials  | 10,000     |
| Total  | 39,400     |

**545.** Based upon the assumptions above, the total cost of awareness raising for all 22 local authorities is estimated to be £866,200.<sup>150</sup>

**546.** The total costs for all local authorities in Wales over a five-year period, including transitional and ongoing costs, is included in Table 27 and is estimated to be £1,923,500.

**Table 27 Total costs to all local authorities over a five-year period**

| Cost   | Amount (£) |
|--|------------|
| Increased cost due to annual registration of 16- and 17-year olds over 5 years   | 421,000    |
| Updating EMS systems to enable registration of 16- and 17-year olds (in 2020-21) | 636,300    |
| Awareness raising (in 2020-21)   | 866,200    |
| Total  | 1,923,500  |

### 10.3.1.2. Costs for the Welsh Government

**547.** Proposals to enfranchise 16- and 17-year olds will result in increased expenditure. Costs have been identified in relation to:

- an increased electorate at Assembly elections; and
- updating the UK Government's Electoral Registration Digital Service.

**548.** Consideration has also been given to a potential, unknown cost for the Welsh Government of awareness raising.

<sup>149</sup> Based on an annual salary including on-costs of £58,742 divided by 2.

<sup>150</sup> Based on 22 x £39,371, equalling £866,162.

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### *Increased costs per elector*

**549.** For Assembly elections the Welsh Ministers pay the costs via a charge on the Welsh Consolidated Fund. The Welsh Government provide an estimate for the cost of the election which is then drawn down to cover the costs of the election.

**550.** *The cost of electoral administration in Great Britain*<sup>151</sup> indicates that the election expenditure per elector in Wales in 2010-11 was £1.96. This includes the costs of holding the election and counting the votes. More recent figures are unavailable and so, for the purposes of this regulatory impact assessment, it has been updated to £2.23 to account for inflation.

**551.** The total additional cost for the 2021 Assembly election is therefore estimated to be £153,900.<sup>152</sup>

### *Electoral Registration Digital Service*

**552.** Those newly enfranchised would be able to register through the UK Government's digital registration system. Presently in Wales this online system cannot be used to register anybody under 16. The system would need to be amended to facilitate the change in the franchise for Wales. This has already been done to accommodate the change in the franchise in Scotland. The Welsh Government will also need to reimburse the Cabinet Office for costs associated with minor changes to allow 14- and 15-year olds to make limited use of the UK Government's Individual Electoral Registration Digital Services to enter their registration details online. Costs estimated by the Scottish Government in the *Scottish Elections (Reduction of Voting Age) Act 2015 Explanatory Notes*<sup>153</sup> were estimated to be in the region of £20,000. Taking account of inflation, it is assumed that these costs are now estimated to be £21,200.

### *Awareness raising*

**553.** The *Senedd and Elections (Wales) Bill* does not place any duties or obligations on the Welsh Government to undertake awareness raising activities in relation to the extension of the franchise to 16-year olds.

**554.** The Assembly Commission believes that awareness raising is important to support the legislative changes. The Assembly Commission and Welsh

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<sup>151</sup> [The Electoral Commission, The cost of electoral administration in Great Britain: Financial information surveys 2009-10 and 2010-11, December 2012](#)

<sup>152</sup> Based on £2.23 x 69,029, equalling £153,934.67.

<sup>153</sup> [Scottish Government, Scottish Elections \(Reduction of Voting Age\) Bill: Explanatory Notes \(and other accompanying documents\), paragraph 31](#)

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Government have therefore been involved in discussions on working collaboratively on awareness raising and developing a range of resources to support this.

**555.** The Welsh Government’s intention is to undertake a three year campaign which will encompass both the Assembly and local government elections. This will include the extension of the local government franchise to include foreign nationals, in addition to 16- and 17-year olds. The proportion of the overall cost to the Welsh Government of developing awareness raising resources that will specifically relate to the extension of the Assembly franchise is currently unknown. As such, the potential Welsh Government cost of awareness raising in relation to extending the Assembly franchise to 16 year olds is treated in this RIA as being unknown.

**Table 28 Summary of Costs to the Welsh Government**

| Cost  | Amount (£)     |
|---|----------------|
| Increased electorate (16- and 17-year olds) for each Assembly election from 2021                          | 153,900        |
| Cost of reimbursing the Cabinet Office for updating the Individual Electoral Registration Digital Service | 21,200         |
| <b>Total</b>  | <b>175,100</b> |

### **10.3.1.3. Costs for the Electoral Commission**

**556.** The Electoral Commission has responsibilities around promoting awareness of elections. It is anticipated that a separate campaign similar to the one developed in Scotland will be necessary to raise awareness of the increase in the franchise. These would be costs incurred in 2021.

**557.** The Electoral Commission indicated in their responses to the Expert Panel<sup>154</sup> in 2017 that the Electoral Commission spent in the region of £120,000 in awareness raising to accommodate the changes to the franchise arising from the *Scottish Elections (Reduction of Voting Age) Act 2015*. Taking account of inflation, it is assumed that this cost would now be estimated to be £127,300.

**558.** It is assumed that the cost of an awareness raising campaign will be proportionate to the size of the group that the campaign is seeking to raise awareness amongst. According to the Office of National Statistics Population Estimates (2016) there were 115,844 16- and 17-year-olds in Scotland in 2016. This

<sup>154</sup> Expert Panel on Assembly Electoral Reform, Written submission: EP13(a)

information has been used to estimate a cost of £1.10<sup>155</sup> per 16- and 17-year-old elector.

**559.** In Wales, this would represent an awareness raising activity cost of £75,900.<sup>156</sup>

**560.** The Electoral Commission also has a function in the designing of forms for the annual canvass and invitations to register. Costs estimated for the Electoral Commission by the Explanatory Notes accompanying the *Scottish Elections (Reduction of Voting Age) Bill*<sup>157</sup> included £40,000 for user testing a re-designed Invitation to Register form to ensure it is clear and easy to understand. The Commission also estimated that designing the form (and making any necessary minor changes to other related forms, including the Household Enquiry Form) would cost a further £35,000. It is assumed that these costs would be unaffected by the comparative sizes of the populations of Scotland and Wales, but after accounting for inflation, it is assumed that these costs would be uprated to an estimated £42,400 and £37,100, respectively.

**Table 29 Summary of costs for the Electoral Commission**

| Cost  | Amount (£) |
|---|------------|
| Electoral Commission awareness raising activity | 75,900     |
| Design of new registration forms                | 37,100     |
| User testing of new registration forms          | 42,400     |
| Total   | 155,400    |

#### **10.3.1.4. Costs for the Assembly Commission**

**561.** The Expert Panel on Assembly Electoral Reform reported that a reduction in the voting age to 16 could increase voter turnout over time but a “reduction in the voting age could reduce turnout initially because 16- and 17-year-olds are likely to vote at a rate below the average for the whole electorate”.<sup>158</sup>

**562.** In order to ensure young people are encouraged and supported to exercise their right to vote, the panel recommended that votes at 16 would have to be accompanied by appropriate, political and citizenship education and information

<sup>155</sup> Calculation based on £127,300 ÷ 115,844.

<sup>156</sup> Calculation based on £1.10 x 69,029, equalling £75,931.90.

<sup>157</sup> Scottish Government, Explanatory Notes to the Scottish Elections (Reduction of the Voting Age) Bill, April 2015

<sup>158</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that works for Wales*, November 2017, paragraph 15.40

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and awareness-raising. This is a theme that also came through in the consultation evidence and in discussion with stakeholders.

**563.** Paragraph 5 of Schedule 2 to the *GOWA 2006* sets out specific powers of the Assembly Commission in relation to the promotion of awareness of the current or pending systems for the election of Assembly Members and devolved elections in Wales. This includes who is eligible to vote in Assembly elections, as well as changes to the disqualification rules etc. Paragraph 6 of the same Schedule enables the Assembly Commission to provide financial assistance to the Electoral Commission, in relation to raising public awareness of those matters, should it consider it appropriate to do so.

**564.** These are discretionary powers of the Assembly Commission, not duties or obligations. Nevertheless, the Assembly Commission has wide discretion as to the role it wishes to take, if any. For example, it may undertake that work itself, work in partnership with others, or fund others to undertake that work.

**565.** In advance of the Assembly elections in 2011 and 2016, the Assembly Commission delivered public information campaigns to raise awareness of the election and encourage people to register and to vote.

**566.** The Welsh Government and Assembly Commission have committed to work together due to the shared interest in this field of work. Activities might include mainstream media advertising, distribution of print materials to households across Wales, and the production of resources and targeted outreach to education institutions and youth groups. However, the exact nature of the campaign and the responsibility for delivery are yet to be developed.

**567.** The primary aim of the campaign will be to increase awareness amongst young people who will be of voting age by the first election of 2021. The objective of this campaign will be to provide a clear, informative and engaging message to young people across Wales about the proposed changes to the franchise. The aim is to make the change in the franchise a successful, positive change, mitigating against the risk of a fall in turn-out. The aspiration is to achieve increased voter turnout across all demographics through an extensive, all-Wales approach, although specific targets have not yet been agreed.

**568.** As noted under option 1, items of expenditure which relate specifically to election activity are funded from the Assembly Commission's "Election costs" budget. This is an additional amount the Commission receives from the Welsh Consolidated Fund (WCF) in the financial year before an election and in the financial year of an election. These amounts are ring-fenced; any amounts not

used for election related items are not drawn from the WCF and are not used for other Commission related expenditure. In 2015-16, the financial year before the last Assembly elections, an amount of £500,000 for election costs was approved by the Assembly and included within the Commission’s budget for that year. Of this amount £427,000 was spent on election related activity. In 2016-17 an amount of £2.5m was requested for election related costs.

**569.** Similar amounts for an “election costs” budget have already been included in the Commission’s 3-year budget plan for 2020-21 and 2021-22.

**570.** Ahead of the 2016 election, £75,000 was spent on an awareness raising campaign. Although details of the campaign are yet to be determined, for the purpose of this RIA it is anticipated that ahead of the 2021 election a budget of £200,000 would be focussed on supporting awareness raising ahead of the 2021 election. Of this figure, £150,000 would be specifically related to this Bill, to promote awareness of the change in voting age.

**571.** For the purpose of this RIA, a figure of £150,000 has therefore been included to reflect Assembly Commission costs related to promoting awareness of the change in voting age.

**Table 30 Cost to the Assembly Commission of promoting awareness of the change in voting age**

| Cost  | Amount (£) |
|---|------------|
| Promotion and awareness raising of the change in voting age | 150,000    |

### 10.3.2. Benefits

**572.** Most 16- and 17-year-olds are still in full-time education, making them far more exposed to political education of some sort than was the case in previous generations. Use of social media and electronic media sites is also high amongst this age group.

**573.** Citizenship and civic awareness are important parts of the curriculum and learners currently have the opportunity to study politics and current affairs through Personal and Social Education, Education for Sustainable Development and Global Citizenship (ESDGC) and the Welsh Baccalaureate.

**574.** The “active citizenship” theme in the existing Personal and Social Education (PSE) framework, the key document which schools and colleges should use to review and develop existing PSE provision for 7- to 19-year olds, allows learners to develop their knowledge of politics and their rights in a democratic society which

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reflects the United Nations Convention on the Rights of the Child. This should mean a more politically aware section of the population.

**575.** The 2014 Scottish referendum – where votes at 16 were made available for the first time in the UK – gives some indication of likely rates of registration. 109,533 16- and 17-year-olds registered, estimated at 89 per cent of those eligible.

**576.** Turnout of 16- and 17-year-olds at the 2014 referendum was estimated at 75 per cent, compared with 54 per cent of 18-24 year olds and 72 per cent of 25-34 year olds, though it was lower than for the electorate as a whole (85 per cent). This supports an argument in favour of extending the franchise, as an early experience of voting could well lead to a maintained engagement, which would hopefully lead on to a greater interest in democratic politics more generally, including standing as a candidate. The lowering of the voting age would require a concerted drive for maximum rates of registration. This might be easier for this age group than for those a couple of years older because most of them are still at home and, as stated earlier, attending school.

#### 10.4. Summary

**577.** Option 1 would make no changes to the status quo. The quality and effectiveness of the local electoral system will remain unchanged.

**578.** Option 2 would deliver a broad range of benefits as set out above. A reduction in the voting age might lead to increased participation in elections by young people as they get older.

**579.** The preferred option is option 2.

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## 11. Cost assessment of changes related to disqualifications from being an Assembly Member

**580.** In 2014, following an invitation from the First Minister, the Fourth Assembly's Constitutional and Legislative Affairs Committee (the Committee) conducted an inquiry into disqualification and published a report.<sup>159</sup> The report included 21 recommendations for change. Some of the recommendations proposed changes to the law on disqualification, including provisions within the *GOWA 2006* and the *National Assembly for Wales (Representation of the People) Order 2007*. The recommendations also related to the next National Assembly for Wales (Disqualification) Order made by the Welsh Ministers.

**581.** At the time the Committee's report was published it was not within the legislative competence of the Assembly to make changes to the relevant provisions. Accordingly the Committee's recommendations were aimed mainly at the UK Government.

**582.** However, in accordance with powers provided to the Assembly by the *WA 2017*, it is now within the Assembly's competence to make the changes recommended by the committee to the law on disqualification.

**583.** Two options have been considered:

- Option 1: do nothing.
- Option 2: make technical amendments to the way in which disqualification operates and amendments to disqualifying offices.

### 11.1. Option 1: do nothing

#### 11.1.1. Description

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**584.** Option 1 is to maintain the current disqualifications framework by not making changes to the law on disqualification recommended by the Committee.

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<sup>159</sup> The Fourth Assembly's Constitutional and Legislative Affairs Committee, [Inquiry into the Disqualification from Membership of the National Assembly for Wales](#), July 2014

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### 11.1.2. Costs and savings

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**585.** There would be no additional costs or savings associated with this option as it would involve maintaining the status quo.

**586.** Opportunity costs could arise as a result of missing the opportunity to make the changes to the current law on disqualification recommended by the Committee. In the report on its inquiry into disqualification,<sup>160</sup> the Committee noted that its recommendations would “not only remove the complications but also ensure that the events following the 2011 election are not repeated”.<sup>161</sup> Those events are outlined in paragraph 179. They included investigations and inquiries by various bodies into the election of disqualified persons and the circumstances of their election, the costs of which are noted below:

**Table 31 Costs of inquiries and investigations held following the election of disqualified persons in 2011**

| Activity  | Cost (£)             |
|---|----------------------|
| The Assembly’s Commissioner for Standards undertook an investigation into the conduct of the two disqualified persons elected to the Assembly in 2011 | 2,000 <sup>162</sup> |
| South Wales Police conducted an investigation into a possible breach of the law by the disqualified persons elected to the Assembly in 2011           | 6,300 <sup>163</sup> |
| Total cost  | 8,300                |

**587.** Two other organisations also conducted investigations into the circumstances surrounding the election of the two disqualified persons: the Electoral Commission and the Welsh Language Board. However, the costs of these investigations are unknown. The Electoral Commission was unable to provide evidence of the costs of its investigation due to the time elapsed since the events and unavailability of financial records from that time. The Welsh Language Board was abolished in 2011 and the cost of its investigation could not be established. It is reasonable to assume the costs incurred by the Electoral Commission and Welsh Language Board were not insignificant.

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<sup>160</sup> The Fourth Assembly’s Constitutional and Legislative Affairs Committee, *Inquiry into the Disqualification from Membership of the National Assembly for Wales*, July 2014

<sup>161</sup> Ibid, p.6

<sup>162</sup> Actual cost: £1968.

<sup>163</sup> Figure of £6,346 provided by South Wales Police.

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**588.** As suggested by the Committee, not legislating to implement its recommendations would create a potential risk of events similar to those in 2011 occurring. The costs noted above do not provide a meaningful measure of the costs of missing this opportunity to legislate on disqualification. However they do demonstrate that costs could be incurred should the events of 2011 be repeated.

**589.** There are ongoing costs resulting from the current legislative provisions on disqualification. The Welsh Ministers routinely make Disqualifications Orders (i.e. Orders in Council made under section 16(5) of the *GOWA 2006* prior to Assembly elections. Disqualifications Orders designate offices, the holders of which are disqualified from being Assembly Members. An order is likely to be required prior to the next Assembly election whether or not the Commission introduces legislation on disqualification, for example to disqualify holders of certain posts or offices which present a conflict of interest with being an Assembly Member and which have come into existence since the current Order was made in 2015. The cost of implementing a new Disqualifications Order would need to be set out in a Regulatory Impact Assessment to accompany the order. Accordingly the cost is not noted here.

**590.** The Electoral Commission routinely issues guidance to candidates and agents prior to Assembly elections on who can stand for election. The guidance for the Assembly election in 2021 will need to reflect changes to the law on disqualification made by our Bill. The Electoral Commission has advised that the cost of issuing this guidance is estimated to be £6,181. This is an on-going cost that will be incurred regardless of whether or not the Assembly Commission legislates on disqualification (i.e. it is not an additional cost).

**591.** The Assembly Commission's Members' Business Support team routinely sends letters to candidates in Assembly elections to inform them of the rules on disqualification. Attached to these letters are a list of disqualifications. It is estimated that preparing and sending such letters to candidates costs £191. This is an ongoing cost which would be incurred regardless of any changes to the law on disqualification. As such, for the purpose of this RIA, this has been treated as an additional cost of £0 for option 1.

### 11.1.3. Benefits and risks

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**592.** The Committee identified a lack of consistency and clarity in the law on disqualification. A decision not to make the changes to the law on disqualification recommended by the Committee would carry significant risk that events such as those seen in 2011 would be repeated due to the lack of consistency and clarity in the law on disqualification.

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**593.** There are no clear benefits associated with option 1.

## 11.2. Option 2: make technical amendments to the way in which disqualification operates and amendments to disqualifying offices.

### 11.2.1. Description

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**594.** Option 2 is to legislate to:

- give effect to the recommendations made by the Committee on changes to the law on disqualification from membership of the Assembly;
- include provisions to make technical amendments to the legislative framework on disqualification; and
- include provisions to introduce new disqualifications and amend the current list of disqualifications.

### 11.2.2. Costs and savings

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**595.** Generally, the legislative changes relating to disqualification made by the Bill should have very limited financial implications.

**596.** It is not anticipated that the disqualification of members of the House of Lords will lead to significant costs (the only cost identified amounts to £37).

**597.** Currently, in accordance with rule 9(4)(c)(ii) in Schedule 5 to the *2007 Order*, the statutory forms that candidates in Assembly elections are required to complete stipulate that candidates must declare that they are not disqualified from membership of the Assembly. It is a criminal offence not to provide a truthful response. If a candidate declares that he or she is disqualified, they cannot continue with their candidature. The Bill amends rule 9(4)(c)(ii) to stipulate that candidates must declare they are not disqualified from standing as a candidate in an election. Under option 2 therefore, the Welsh Ministers will need to make such changes as are appropriate to the forms to be completed by candidates to ensure that they require a declaration on disqualification from candidature for election to the Assembly only, rather than a declaration on disqualification from serving in the Assembly. However, such forms are routinely amended prior to elections and the costs of revising this one question are unlikely to significantly affect the routine costs of amending these forms. As such, for the purpose of this RIA, this has been treated this as an additional cost of £0.

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**598.** As noted in paragraph 591 above, the Assembly Commission's Members' Business Support team issues letters to candidates ahead of Assembly elections to inform them of disqualifications from membership of the Assembly. It is estimated that amending the standard letter template to reflect the legislative changes on disqualification made by this Bill would cost £37. As noted in option 1, the cost of preparing and sending letters to candidates is an ongoing cost that would be incurred regardless of any legislative changes brought forward on disqualification.

**599.** It is not anticipated that the Bill's provisions on disqualification will otherwise require any changes to the internal guidance or Standing Orders of the National Assembly for Wales.

**600.** It is not anticipated that the disqualification of members of the House of Lords will lead to significant savings, and for the purpose of this RIA, such costs have been represented as £0.

**601.** The disqualification of members of the House of Lords may result in limited savings for the House of Lords, due to fewer members of the House of Lords being eligible to claim daily allowances and expenses. Most members of the House of Lords do not receive a salary for their parliamentary duties but are eligible to receive allowances and, within certain limits, the travel expenses they incur in fulfilling their parliamentary duties. Members of the House of Lords who have taken leave of absence in order to serve in the Assembly, or who have retired or otherwise resigned as a member of the House, will not be permitted to take part in House of Lords proceedings and will not therefore be eligible to claim daily allowances and expenses. Members of the House of Lords who are not paid a salary may claim a flat rate attendance allowance of £153 or £305 (new rate from the 1st April 2018), or £150 or £300 (old rate up to 31st March 2018), or may choose to make no claim for each sitting day they attend the House. It is for members to decide whether to claim the daily allowance at the higher or lower rate.

**602.** However, for the purpose of this RIA, it has been assumed that this is a saving of £0. The rationale for this is that any Member who was a Member of both the House of Lords and the National Assembly for Wales would be likely to have an atypical pattern of attendance (and therefore it would be difficult to base an assessment on average attendance patterns at the House of Lords). Moreover, such Members could potentially choose to make no claim for each sitting day that they attend the House. It is also difficult to accurately assess the number of Members who might be a Member of both institutions over a period of time. Therefore to negate the possibility of over-stating the savings that could theoretically be

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rendered via this option, the saving is represented as £0. It may also be noted that any savings rendered would not appear through the Welsh Consolidated Fund.

**603.** As previously noted under option 1, four organisations/bodies conducted inquiries and investigations following the election of disqualified persons in 2011, the known costs of which amounted to £8,314. An argument could therefore be made that option 2 will render savings to the public purse, as option 2 should help to avoid the election of disqualified persons, thereby minimising the need for future investigations and inquiries. However, it is impossible to accurately estimate the number of disqualified persons that could theoretically be elected in the future. As such, this possible saving is represented as £0 in this RIA.

**604.** Various other stakeholders were consulted on the potential costs and savings of the Bill. No costs or savings were identified by stakeholders other than those noted above.

### 11.2.3. Benefits and risks

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**605.** The benefit of the proposed legislative changes on disqualification will be to provide a clearer and more coherent framework on disqualification from membership of the Assembly. As recognised by the Committee, this will help to avoid the recurrence of events such as those that followed the Assembly election in 2011, including the cost of such events.

**606.** The Bill addresses both electoral and constitutional matters, such as the franchise for Assembly elections and the name of the institution respectively. It can be argued that the rules on disqualification from membership of the Assembly is an electoral matter, as the rules apply to persons who cannot be elected to the Assembly, and also a constitutional matter as the rules determine who can represent the electorate within Wales' primary democratic, law-making institution. It can be argued that this Bill provides an appropriate opportunity to legislate to give effect to the Committee's recommendation, and that further opportunities to do that during the remainder of this Assembly are likely to be very limited.

**607.** There are no significant risks associated with option 2. Currently there are two Assembly Members who are also members of the House of Lords. Measures have been taken to ensure that these two persons are not unfairly affected by the provisions on disqualification in the Bill. These measures include delaying commencement of the relevant provisions until the dissolution of this Assembly, as a means of ensuring the disqualification of members of the House of Lords from membership of the Assembly does not affect these two persons during this

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Assembly. The Bill also provides an exemption from disqualification for members of the House of Lords who have taken leave of absence from the House of Lords. This means that, should one or both of these two persons be elected to the next Assembly, and remain members of the House of Lords, they would be able to take up their seat in the Assembly on the condition that they had taken leave of absence from the House of Lords.

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## 12. Cost assessment of the need for a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums

**608.** Currently, the Assembly has no legislative duty to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums. Should the Assembly make any recommendations to it, the Electoral Commission would not have a duty to respond.

**609.** Two options have been considered:

- **Option 1:** do nothing.
- **Option 2:** place a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums, and a duty on the Electoral Commission to respond to any recommendations made by the Senedd in light of such consideration. (preferred option).

**610.** A further option would be to include a duty in the Senedd's Standing Orders only, rather than in legislation. However, this has been discounted, as the further aim of placing a duty on the Electoral Commission to respond to the Assembly would not be achieved, as the Standing Orders do not extend to an organisation external to the Senedd.

### 12.1. Option 1: do nothing

#### 12.1.1. Description

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**611.** Under option 1, the existing, ad-hoc approach to the Senedd's consideration of the financial and oversight arrangements for the work of the Electoral Commission would continue. Senedd committees, as some have done in previous

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Assemblies,<sup>164</sup> may pursue own initiative inquiries in this regard, but there would not be a duty for them to do so. In addition, should the Senedd make any recommendations to the Electoral Commission, there would not be a duty for it to reply.

### 12.1.2. Costs and savings

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**612.** There are no additional costs or savings associated with option 1.

**613.** Although a cost is attached to undertaking a committee inquiry, due to the ad-hoc nature of previous Assembly committees' inquiries into the oversight of the Electoral Commission, a high degree of uncertainty is attached to the possibility of a committee doing so within a 5-year period.

**614.** For the purpose of this RIA, therefore, there is a zero ongoing cost associated with option 1.

### 12.1.3. Benefits and risks

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**615.** There are no identified benefits associated with option 1.

**616.** A risk under option 1 is the potential for missed opportunities to consider the financial and oversight arrangements for the work of the Electoral Commission. An Assembly committee might wish to undertake an inquiry in this regard, but other priorities, and requirements placed upon it through Standing Orders, could mean it was unable to pursue with its aim.

## 12.2. Option 2: place a duty on the Assembly to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums

### 12.2.1. Description

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**617.** Under option 2, the Senedd would have a statutory duty to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums. The Electoral Commission would also have a statutory duty to respond to any recommendations made to it by the Senedd.

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<sup>164</sup> For example, in December 2007, the Third Assembly's Equality of Opportunity Committee reported on an inquiry into *The Accessibility of Polling Stations*. Similarly, in November 2006, the Local Government and Public Services Committee reported on *Electoral Arrangements in Wales*.

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**618.** Reviews undertaken by the Senedd could provide opportunities to consider key issues such as:

- the cost of Welsh devolved elections and referendums;
- the funding of such costs by the Assembly;
- how the funds required to cover such costs would be transferred from Westminster to the Assembly;
- the arrangements by which the Assembly would hold the Electoral Commission to account for its work on devolved Welsh elections, and
- how such scrutiny arrangements would work alongside scrutiny of the Electoral Commission by the UK Parliament.

**619.** This option does not stipulate how the Senedd should consider the financial and oversight arrangements for the work of the Electoral Commission. Instead, it is intended that the Senedd may make provision within its Standing Orders on how the duty should be carried out. The Assembly would be able to delegate functions to the Presiding Officer, a committee or sub-committee of the Assembly to undertake that duty.

**620.** There would also be no requirements or constraints on the frequency with which the Senedd should consider the financial and oversight arrangements for the work of the Electoral Commission. The frequency with which this duty will need to be exercised may depend on electoral events in Wales, ordinary and extraordinary, and on any identified need to change the Electoral Commission's arrangements in light of their regulation of such events.

**621.** Under this option, the Electoral Commission would also have a duty to respond to any recommendations made to it. The Electoral Commission would only have a duty to only respond to such recommendations, rather than to necessarily accept and implement them.

#### 12.2.2. Costs and savings

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**622.** As noted above, this option does not stipulate how the Senedd should consider the financial and oversight arrangements for the work of the Electoral Commission, nor does it stipulate the frequency with which such consideration takes place.

**623.** Nevertheless, for financial modelling purposes, this RIA assume that such consideration would:

- take place through a Senedd committee;
- involve 6 hours of committee time; and
- take place twice during a five-year period (following an Assembly election and local government elections in Wales<sup>165</sup>).

**624.** The estimated cost of a committee’s consideration of this matter is included in Table 32. This includes staff time to prepare for meetings, attend meetings, and draft outputs from them. On the assumption that such an inquiry is undertaken twice in a 5-year period, the total ongoing cost for this period is estimated to be £39,200.

**Table 32 Estimated costs for committee consideration of financial and oversight arrangements for the work of the Electoral Commission**

| Committee-related activities  | Grade                           | Days | Total cost (£) |
|---|---------------------------------|------|----------------|
| Committee Clerk - preparation for meetings, attendance, and drafting of outputs | Executive Band 2 <sup>166</sup> | 6.8  | 1,900          |
| Researcher – preparation of research briefs for meetings and attendance         | Executive Band 2                | 3.8  | 1,100          |
| Legal Adviser – preparation of advice for meetings and attendance               | Executive Band 2                | 6.0  | 1,700          |
| Deputy Clerk – co-ordination of meetings and their associated outputs           | Management Band 2               | 9.0  | 1,500          |
| Committee Support Officer – administration of meetings                          | Team Support                    | 6.0  | 600            |
| Simultaneous translation of meetings including preparation time                 | Management Band 1               | 1.7  | 400            |
| Translation of papers, reports and associated meeting documents                 | Management Band 2               | 3.0  | 500            |
| Drafting the Record of Proceedings during meetings                              | Management Band 2               | 0.8  | 200            |
| Editing the Record of Proceedings of meetings                                   | Management Band 1               | 3.0  | 600            |

<sup>165</sup> Over a five-year period, each of those two elections would normally take place once.

<sup>166</sup> It is possible that this activity could be undertaken by a Committee Second Clerk (Management Band 1), which would reduce the overall costs by approximately £500. However, the maximum cost is included here.

|  |     |     |        |
|--|-----|-----|--------|
| Broadcasting of meetings – external contractor | N/A | N/A | 11,200 |
| Total  |     |     | 19,600 |

**625.** It may be noted that committee Members’ time is not costed in the table above. This reflects that Members’ financial costs will remain constant, regardless of the number of committee meetings that are held.

**626.** However, it may be noted that there is also an unquantified, and therefore unknown, opportunity cost that arises from committee Members’ time being used in this manner. Time spent on a committee inquiry of this nature cannot be spent preparing for scrutiny of Welsh Government Ministers, engagement with constituents, or pursuing committee inquiries into other matters.

**627.** It is anticipated that the Electoral Commission will incur staff time costs in relation to attending such committee meetings and responding to recommendations made by the Senedd. An overview of these estimated costs is included in Table 33. Based on the aforementioned assumption that such a committee inquiry would be undertaken twice in a 5-year period, the total ongoing cost to the Electoral Commission over this period is estimated to be £19,600.

**Table 33 Ongoing costs for the Electoral Commission in relation to committee consideration of financial and oversight arrangements for its work**

| Activity  | Equivalent Welsh Government Grade | % of overall annual time | Total cost (£) |
|---|-----------------------------------|--------------------------|----------------|
| Preparation for, and attendance at committee meetings | Executive Band 2                  | 5 <sup>167</sup>         | 3,900          |
| Research and produce reports for committee            | Management Band 1                 | 10 <sup>168</sup>        | 5,900          |
| Total   |                                   |                          | 9,800          |

**628.** The total ongoing cost under this option is therefore expected to be £58,800.

<sup>167</sup> 5% of overall time, at an annual salary of £77,308 including on costs, in addition to attendance at a total of 2 hours of committee meetings (calculated as £80.14), equalling £3,945.54.

<sup>168</sup> 10% of overall time, at an annual salary of £58,742 including on costs, equalling £5,874.20.

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### 12.2.3. Benefits and risks

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**629.** Placing a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums will ensure that lessons are learnt from the running of elections and improvements can be made in the future in a systematic way.

**630.** It will also ensure that efficiency and value for money in the running of Welsh elections and devolved referendums is considered on a regular basis. Evidence suggests that positive progress can be made where a committee has maintained its focus over time.<sup>169</sup> Ultimately, it is therefore assumed that this maintained scrutiny will lead to efficiency savings in the longer term. However, a high degree of uncertainty is attributed to this potential cost saving, which is also likely to be realised outside of the 5-year appraisal period for this RIA.

**631.** There are no anticipated risks associated with pursuing with this option.

**632.** Option 2 is the preferred option.

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<sup>169</sup> For example, in its [Legacy Report](#) (March 2016), the Children, Young People and Education Committee of the Fourth Assembly identified a number of examples where particular progress had been achieved as a result of a maintained focus on a specific issue by the Committee.

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## 13. Cost assessment of changes to enable implementation of Law Commission recommendations on the rationalisation of electoral law

**633.** The electoral law reform project originated in the Law Commission for England and Wales' Eleventh Programme of Law Reform.<sup>170</sup> Its scope, determined in 2012, extends to electoral administration law, offences and legal challenges. An interim report was published in February 2016.<sup>171</sup> The purpose of the recommendations was to simplify the administrative arrangements relating to elections and to standardise those arrangements across the four parts of the UK (unless there is good reason for taking a different approach, for example in relation to language provisions in Wales or because of differing electoral systems).

**634.** Following the publication of the interim report, the Law Commission's intention was to produce a final report and draft legislation to give effect to their final recommendations. However, the UK Government has not, to date, formally responded to the report. The UK Government stated in late 2016 that there was insufficient parliamentary capacity for an electoral bill to take forward the recommendations.<sup>172</sup> It remains unclear whether the Law Commission will publish revised recommendations within a final report on its electoral law reform project.

**635.** Two options have been considered:

- Option 1: do nothing.
- Option 2: give Welsh Ministers an enabling power to make such subordinate legislation as is required to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration which the Law Commissions may make in due course (**preferred option**).

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<sup>170</sup> Law Commission of England and Wales, [Electoral law reform project](#)

<sup>171</sup> Law Commission of England and Wales, Scottish Law Commission and Northern Ireland Law Commission, [Electoral law: an interim report](#), February 2016

<sup>172</sup> Law Commission of England and Wales, [Electoral law reform project](#)

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## 13.1. Option 1: do nothing

### 13.1.1. Description

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**636.** Defer a decision on any legislative action until the Law Commission has published its final report and recommendations.

### 13.1.2. Costs and savings

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**637.** This option would give rise to no direct additional costs or savings.

### 13.1.3. Benefits and risks

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**638.** The purpose of the Law Commission's recommendations are to simplify administrative arrangements relating to elections, and standardise arrangements across the UK (unless there is good reason for divergence).

**639.** Taking no legislative action at this time would not prevent legislative or administrative implementation of recommendations in relation to devolved elections in Wales in the future.

**640.** However, without a suitable subordinate legislation-making power for the implementation of the recommendations for local and Assembly elections in Wales it is possible that additional primary legislation would be required. This would give rise to additional costs, delays and implications for Assembly time (but these are currently unknown).

## 13.2. Option 2: subordinate legislation-making power for Welsh Ministers

### 13.2.1. Description

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**641.** Include within the legislation an enabling power for the Welsh Ministers to make such subordinate legislation as is required to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration made by the Law Commission.

### 13.2.2. Costs and savings

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**642.** Providing a subordinate legislation-making power would not directly give rise to any additional costs or savings.

**643.** The Law Commission published an assessment of the impacts of its interim recommendations on electoral law reform and acknowledged there may be some

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financial costs incurred by those organisations responsible for implementing the proposals. It did not provide a quantified estimate of those costs, but instead stated:

“Transitional costs: Training costs will fall on central, devolved and local government in relation to their various responsibilities for administering elections and referendums.

Ongoing costs: There are only minimal on-going costs in relation to electoral administration generally (second residences, combination). In relation to challenges to electoral events, there may be costs in relation to one recommendation; the proposal for the establishment of a structured system for informal complaints.”<sup>173</sup>

**644.** Whilst acknowledging those potential costs, the Law Commission also stated that the implementation of its recommendations should lead to significant financial savings, though it did not provide estimated figures for those savings:

“Key monetised benefits relate to the potential for substantial efficiency savings. These will benefit each of the central, devolved and local government bodies exercising responsibility for various elements of the system of electoral administration.”<sup>174</sup>

**645.** The use of the subordinate legislation-making power to implement Law Commission recommendations, and the timing of any such use, is a matter for the Welsh Ministers. Any subordinate legislation introduced will be subject to the usual requirements for the preparation of impact assessments and explanatory memoranda, as well as to scrutiny by the Assembly and its committees. These costs are, therefore, currently unknown.

### 13.2.3. Benefits and risks

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**646.** Giving the Welsh Ministers a subordinate legislation-making power, as opposed to including provision within primary legislation, reduces to an extent the Assembly’s control over the timing of any legislation, and the specific detail contained within it.

**647.** However, this risk is mitigated by the application of the affirmative scrutiny procedure to any statutory instruments brought forward under the power, and by

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<sup>173</sup> Law Commission, *Electoral Law Interim Impact Assessment*, February 2016

<sup>174</sup> Law Commission, *Electoral Law Interim Impact Assessment*, February 2016

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the narrow framing of the power to ensure that it can only be used to give effect to recommendations made by the Law Commission.

**648.** The legislation-making power will be inserted into section 13 of the *GOWA 2006* which provides the Welsh Ministers with the power to make orders to make provisions about elections. Orders made under Section 13 are subject to the affirmative procedure.

**649.** Including the implementation of Law Commission proposals within the list of purposes for which the power in section 13 of the *GOWA 2006* may be used has a range of benefits, including:

- Highlighting the importance of the Law Commission’s work to the arrangements for Assembly elections, so that the Assembly, its Members and committees give proper consideration to these recommendations;
- Adding to the list of specific purposes in subsection (2) of section 13 of the *GOWA 2006* for which the power in subsection (1) may be used, in order to be clear that implementation of Law Commission recommendations is a specific purpose;
- In order to ensure that the legislative framework for all devolved elections in Wales remains coherent and robust, specifying within the Bill that the power may be used to implement Law Commission recommendations for Assembly and local government elections in Wales.

**650.** The Law Commission also identified non-financial benefits that would result from the implementation of its recommendations:

“The UK and devolved governments and legislatures will also benefit from an electoral legislative framework that more easily enables policy changes to be implemented.

... sustained or enhanced confidence in elections and thereby the maintenance or improvement of confidence in democratic institutions, providing stability and legitimacy. These benefits fall on the general public, the political and governmental system, and indirectly on all other economic and social actors.”<sup>175</sup>

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<sup>175</sup> Law Commission, *Electoral Law Interim Impact Assessment*, February 2016

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#### 13.2.4. Summary and preferred option

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**651.** In summary, the options considered are:

- Option 1: do nothing. Deferring any legislative action would enable the Assembly to consider the final recommendations of the Law Commission in due course, but could result in delays to the implementation of any recommendations should further primary legislation be required.
- Option 2: include within the legislation an enabling power for Welsh Ministers to make such subordinate legislation as is required to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration which the Law Commission may make in due course. This option would enable the implementation of any reforms to be undertaken in a timely manner, without the need for further primary legislation, while providing the Assembly with opportunities to scrutinise the subordinate legislation at the appropriate time.

**652.** The preferred option is option 2, on the basis that a subordinate legislation-making power which is appropriately narrowly framed and subject to the affirmative scrutiny procedure provides the right balance between:

- Assembly oversight of the administration of devolved elections in Wales; and
- ensuring that relevant Law Commission recommendations may be implemented in a timely and effective way.

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## 14. Cost assessment of reform of the Assembly's internal and operational arrangements: extend the period after an election within which the Assembly must hold its first meeting, and clarify the Assembly Commission's power to charge for services that are not in relation to its functions

**653.** The *GOWA 2006* provides the legislative framework for the Assembly's internal and operational arrangements. Some procedural requirements are explicitly detailed on the face of the *GOWA 2006*. Other provisions in the *GOWA 2006* specify issues which must be covered by the Assembly's Standing Orders. Where the *GOWA 2006* is silent (and no other legislative requirements apply) the Assembly has the flexibility to determine its procedures itself. It may do this by formalising rules in Standing Orders, or through practice and precedent.

**654.** The *WA 2017* gives the Assembly legislative competence over many of the provisions in the *GOWA 2006* which set the procedural framework. Consideration has been given as to whether reform of these provisions would strike a more appropriate balance between procedural robustness and the flexibility which is suited to a national legislature to determine its arrangements via its own internal procedural mechanisms.

**655.** Two options have been considered:

- Option 1: do nothing.
- Option 2: extend the period after an election within which the Assembly must hold its first meeting, and clarify the provisions in the *GOWA 2006* enabling the Assembly Commission to charge for services which are not connected to the Assembly's functions. **This is the preferred option.**

### 14.1. Option 1: do nothing

#### 14.1.1. Description

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**656.** Retain the current provisions in the *GOWA 2006*, and continue to ensure that the Assembly's procedures and practices comply with the provisions.

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### 14.1.2. Costs and savings

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**657.** There are no additional costs or savings associated with this option.

### 14.1.3. Benefits and risks

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**658.** The benefit of retaining the current arrangements is that they are familiar to Assembly Members, officials, and those who engage with the work of the Assembly.

**659.** However, this would represent a missed opportunity to ensure that the Assembly has the flexibility appropriate to a national legislature to determine its own procedures and working practices via its internal procedural mechanisms, without requiring primary legislation on an ongoing basis.

## 14.2. Option 2: extend the period after an election within which the Assembly must hold its first meeting, and clarify the Assembly Commission's power to charge for services that are not in relation to its functions

### 14.2.1. Description

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**660.** The first element of option 2 is to extend the period after an election within which the Assembly must hold its first meeting.

**661.** Standing Order 12.7 provides that the date and time of the first Plenary meeting after an election are determined by the incumbent Llywydd (Presiding Officer), or by the Clerk of the Assembly if the Llywydd is unable or unwilling to act. At present, the *GOWA 2006* requires that the first meeting is held within seven days of an ordinary or extraordinary election. The *GOWA 2006* makes provision for how this period is calculated, for example how bank holidays or periods of national mourning are taken into account.

**662.** The seven-day period provides limited scope for political parties to meet, discuss, and negotiate potential coalition or other arrangements before the Assembly must meet. Allowing a suitable period for such discussions and negotiations is particularly important under an electoral system which is less likely to produce a one-party majority government. This is true of the Assembly's current electoral system, and in relation to the electoral systems proposed by the Expert Panel on Assembly Electoral Reform.

**663.** The provisions in the Bill would extend the period within which the Assembly must hold its first meeting from seven days to 14 days. This is in line with the

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amendment made to the *Scotland Act 1998* by the *Scotland Act 2012*, which increased the deadline within which the Scottish Parliament must elect a Presiding Officer and deputies from seven to 14 days. While the Scottish Parliament must still meet within seven days of an election, this is for the purpose of enabling MSPs to take the oath or make the affirmation, which forms part of the formal proceedings of the Scottish Parliament. Oath-taking and affirmation-making do not form part of the Assembly's formal proceedings.

**664.** The second element of this option is to clarify the Assembly Commission's power to charge for services that are not related to its functions.

**665.** The *GOWA 2006* provides that the Assembly Commission may charge for goods and services provided in connection with its functions. A further power, which is not linked to the Commission's functions, allows goods to be sold. For example, the Commission may sell goods in its shop.

**666.** The *GOWA 2006* also allows the Commission to provide services which are not connected to the discharge of its functions. However, the drafting of the provision creates a potential ambiguity in relation to the ability of the Commission to charge for such services. The provisions in the Bill would resolve this ambiguity, clarifying that the Commission may charge for such services.

#### 14.2.2. Costs and savings

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**667.** The date on which the first meeting is held has no effect on the costs associated with holding the first Plenary meeting – the costs are the same regardless of when the meeting is held.

**668.** In addition, analysis of the early Plenary meetings in the Third, Fourth and Fifth Assemblies (set out in the table below) suggests that an extension of the period within which the first meeting may be held is unlikely to have an impact on the overall number of Plenary meetings which are held. In each case, while the first meeting was held four days after the election, it was not until the sixth full week after an Assembly election that the usual pattern of Tuesday and Wednesday Plenary meetings was established. This suggests that, if anything, the number of meetings held before the summer recess are more influenced by the timing of the nomination of the First Minister than by the date of the first meeting. The 28-day period within which a nomination for First Minister must be made will be unaffected by the extension of the deadline for the first meeting. It is not, therefore, anticipated that the extension of the period within which the first meeting must be held will give rise to either costs or savings as a result of the number of Plenary meetings held.

**Table 34 Early Plenary meetings in previous Assemblies**

| Election year | Plenary meeting at which Llywydd and DPO were elected | Plenary meeting at which First Minister was nominated | Number of Plenary meetings held before usual pattern of meetings was established | Total number of Plenary meetings held before the summer recess |
|---------------|---|---|--|--|
| 2007          | First meeting (four days after election)              | Second meeting (15 days after election)               | 3  | 13   |
| 2011          | First meeting (four days after election)              | First meeting (four days after election)              | 4  | 14   |
| 2016          | First meeting (four days after election)              | Second meeting (nine days after election)             | 4  | 14   |

**669.** The policy proposal provides the Assembly with greater flexibility to determine when it meets after an election, and therefore when it elects a Llywydd and Deputy Presiding Officer. Section 25(3) of the GOWA 2006 provides that, on dissolution of an Assembly for the purposes of an election, the Llywydd remains in office until another Llywydd is elected by the newly elected Assembly. The timing of the election of the new Llywydd therefore has no impact on the overall salary costs.

**670.** However, section 25(4) of the GOWA 2006 provides that the Deputy Presiding Officer ceases to hold office upon dissolution. The timing of the election of a Deputy Presiding Officer therefore affects the period for which that salary (an uplift to their salary as an Assembly Member) is payable. Table 35 below shows the estimated saving in the Deputy Presiding Officer's salary if the first meeting of the Assembly after the 2021-22 election was held 14 days after the election instead of seven days after the election.

**Table 35 Potential saving on Deputy Presiding Officer salary in financial year 2021-22 resulting from an extension of the deadline for the first Assembly meeting after an election<sup>176</sup>**

|  | Estimated amount of additional salary paid to a DPO if the first meeting after the 2021-22 Assembly election is held seven days after the election (£000) | Estimated amount of additional salary paid to a DPO if the first meeting after the 2021-22 Assembly election is held 14 days after the election (£000) | Potential saving (£000) |
|--|---|--|-------------------------|
| Deputy Presiding Officer annual office holder salary (currently an additional £21,934 to a Member's salary per annum. This increase is estimated to be £23,049 by 2021-22 (i.e. the first year in which the new deadline for the first meeting would apply)) | 20.2  | 19.6   | 0.6                     |

**671.** The policy would not give rise to any other costs or savings.

**672.** Technically staff time, Business Committee time and Assembly time would be required to review and adjust Standing Orders and working practices, to reflect the extension of the period after an election within which the Assembly must hold its first meeting. However, it is anticipated that the time involved in this change would be negligible, largely consisting of replacing references to “seven days” with “14 days”. In practice, such activity would also form part of the Assembly Commission’s “business as usual”, as Standing Orders and Assembly working

<sup>176</sup> These figures for the year 2021-21 are based on the actual additional salary amount to be paid to the Deputy Presiding Officer in 2019-20, as determined by the Remuneration Board, with estimated annual increases applied. The annual increase to the additional salary is estimated to be 1.9 per cent per annum for 2020-21 and 2021-22. The figure of 1.9 per cent is based on the average annual increase to the Deputy Presiding Officer’s salary between 2017-18 and 2019-20 i.e. 2.1 per cent in 2017-18, 2.3 per cent in 2018-19 and 1.2 per cent in 2019-20. The figures in this table show the saving in the Deputy Presiding Officer’s salary only and do not take into account on-costs, NI, pension etc.

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practices are routinely kept under review. Consequently, for the purpose of this RIA, this cost is represented as £0.

**673.** Staff time would also technically be required to update guidance for Members and public information. Again, the actual amount of staff time is considered negligible, largely consisting of replacing references to “seven days” with “14 days”. Again, in practice this would not give rise to additional costs above business as usual, as information is reviewed periodically and guidance and information are prepared on a bespoke basis for each election. For the purpose of this RIA, this cost is therefore represented as £0.

**674.** It is believed that clarifying the Assembly Commission’s power to charge for services that are not in relation to its functions, will not directly give rise to any costs or savings. This is because the Assembly Commission currently has no plans to make use of the clarification by charging for services delivered (other than services in connection with the Commission’s functions).

**675.** Should the Commission develop any such plans, a full assessment would need to be made of the potential costs, savings and projected income of such plans. However, these costs and savings are currently unknown, and therefore cannot be quantified in this RIA.

### 14.3. Benefits and risks

**676.** There are no identified risks associated with extending the time within which the Assembly must hold its first meeting: this simply gives the Assembly greater flexibility over when it meets for the first time. Should external events make it essential or beneficial for the Assembly to meet sooner after an election, the provisions in the Bill would not be a barrier to this. The increased flexibility would provide political parties with more time for discussion and negotiation, increasing their ability to reach agreement on the governance of Wales following an election.

**677.** No risks have been identified in relation to including provisions in the Bill that would provide greater clarity about the functions of the Commission, and its ability to charge for services delivered not in connection with the discharge of its functions. A possible benefit is that this could enable the Commission to explore more effective ways of using its estate, although this would be subject to the priorities and decisions of a future Assembly Commission.

### 14.4. Summary and preferred option

**678.** In summary, the options considered are:

- 
- Option 1: do nothing. Retain the current provisions in the *GOWA 2006* determining the Assembly's procedural arrangements.
  - Option 2: extend the period after an election within which the Assembly must hold its first meeting, and clarify the provisions in the *GOWA 2006* which enable the Assembly Commission to charge for services which are not delivered in connection with its functions.

**679.** The preferred option, which is reflected in the Bill, is option 2.

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# Part 3: Other impact assessments

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## 15. Purpose and background of impact assessments

**680.** The purpose of the impact assessments included below is to consider the impact of the Bill's provisions on particular groups or areas and to consider any changes needed to the Bill in order to mitigate negative impacts or ensure more positive impacts.

**681.** These impact assessments have been undertaken in accordance with requirements set out either in the Assembly's Standing Orders or in the *GOWA 2006*, or as a matter of best practice. It may be noted that these impact assessments do not seek to evaluate issues that are not addressed by this Bill, such as the wider agenda of electoral reform, and other issues that were included in the Expert Panel's report. As previously noted, some of these issues may be addressed in a second legislative phase, but it has not been considered feasible to provide an analysis of these issues in this document.

**682.** However, the impact assessments do seek to evaluate the Bill's impacts on all groups of people, not just those it positively impacts upon. For example, consideration has been given to the impact of the Bill on children and young people who will not be enfranchised with the right to vote, as well as those who are.

**683.** The background to the policy areas discussed in the impact assessments can be found in this document as follows:

- Name of the Assembly – 4.2;
- Entitlement to vote in Assembly elections – 4.3;
- Disqualification from being an Assembly Member – 4.4;
- Duty on the Senedd to consider the financial and oversight arrangements of the Electoral Commission – 4.5;
- Implementation of Law Commission recommendations for rationalisation of electoral law – 4.6;
- Date of the first meeting of the Assembly – 4.7;
- Powers of the Assembly Commission – 4.8.

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## 15.1. Who has been involved / consulted with as part of developing these impact assessments?

**684.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of these impact assessments.

**685.** The development of the impact assessments were also informed by informal discussions with officials from a number of expert stakeholders, including the Equality and Human Rights Commission, Children's Commissioner for Wales, Welsh Language Commissioner, Future Generations Commissioner and Public Health Wales.

## 15.2. Summary of findings

**686.** Some of the impact assessments included below identify potentially negative impacts on particular groups or areas. As noted in the assessments, mitigating measures have been agreed to avoid or reduce negative impacts.

**687.** The impact assessments also identify that some of the Bill's provisions could have positive impacts on particular groups or areas.

**688.** No impacts have been identified which require introduction of this legislation to be reconsidered or delayed and the intention remains to introduce this legislation in its current form.

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## 16. Justice Impact Assessment

**689.** Two Justice Impact Assessments were conducted on this legislation. The first Assessment focussed specifically on extending the Assembly franchise to 16- and 17-year olds. The second Justice Impact Assessment encompassed the remaining elements of the Bill.

### 16.1. Justice Impact Assessment 1: Extension of the Assembly franchise

#### 16.1.1. What is the proposal?

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**690.** The *Senedd and Elections (Wales) Bill* includes provisions relating to the National Assembly for Wales including elements related to the franchise for Assembly elections and name change. This submission addresses issues related to the franchise only. The franchise reforms extend the electoral franchise to 16- and 17-year olds in Wales. The impacts of the following matters have been considered:

- Extending the franchise. Lowering the voting age to 16 for Assembly elections and increasing the numbers of the electorate could lead to a consequent increase in electoral offences (such as failing to respond to an invitation to register or voting offences) in light of the increased electorate.
- Protection of young people's electoral data. The Bill includes a new summary offence of disclosing information about young people under the age of 16 without statutory authority.

#### 16.1.2. Please specify the name of this (and any related) legislation. How do you expect the relevant provisions of this (new) legislation to be enacted?

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**691.** The provisions will be enacted through the *Senedd and Elections (Wales) Bill*. The law concerning the local government franchise and registration of electors is largely set out in the *Representation of the People Act 1983*. Section 12 of the *GOWA 2006* provides that those who are entitled to vote in local government elections in Wales and who are registered as such are entitled to vote at National Assembly for Wales elections. The *National Assembly for Wales (Representation of the People) Order 2007* includes provision about registering, voting and other electoral matters at National Assembly for Wales elections.

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16.1.3. Please indicate the anticipated date when a) the legislative changes are expected to come into force and b) the date when the first anticipated impact on the justice system will arise.

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**692.** The provisions to extend the franchise will take effect from the date of the next ordinary National Assembly for Wales election which are currently scheduled to be held in May 2021. Individuals will be added to the electoral register as part of the annual canvass which will start in July 2020. Any impacts on the justice system will be minimal but if there are cases they would be possible from the point of information on young people being gathered as part of the 2020 July canvass.

16.1.4. If altering or introducing an offence, sanction or penalty, which of the following groups will the proposal affect and in what circumstances? (Tick all that apply)

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- Individuals
- Private Institutions (e.g. Businesses)
- Public Institutions (e.g. Government Departments)

#### **16.1.4.1. Extension to the Franchise**

**693.** There is an existing sanctions framework set out in the *RPA 1983* for various electoral offences (e.g. providing false registration details, multiple voting etc.). This framework is largely mirrored in the *2007 Order*. It is noted that extending the franchise to a wider group of people means that this sanctions framework will apply to more people. There is no evidence to suggest that that this will lead to an increase in the number of offences being committed. Certainly this is the experience in Scotland where the franchise has been extended to 16- and 17-year olds since 2015 by virtue of the *Scottish Elections (Reduction of Voting Age) Act 2015*.

#### **16.1.4.2. Release of young people's electoral information.**

**694.** The new summary offence of disclosing electoral information about young people under the age of 16 would have an impact on individuals who could commit such offences. Should a potential offence be identified, it would be a matter for the police to investigate. There is an equivalent offence in Scottish law following the extension to the franchise to 16-year olds and there is no evidence from Scotland that any offences have been committed.

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#### 16.1.5. Does your legislation only have impact in Wales or are you working jointly with other administrations?

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- Wales only
- England
- Scotland
- Northern Ireland
- Other (Please Specify)

**695.** The proposals to extend the franchise to 16- and 17-year olds will apply only to National Assembly for Wales elections. There is the possibility that a young person who is in the care of a Welsh local authority may reside elsewhere in the UK. They would be able to register by using a declaration of local connection and having a proxy or postal vote. It is not thought that this has any impact on the justice system.

#### 16.1.6. Could your legislation directly impact on visitors to Wales?

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**696.** This legislation will not impact on visitors to Wales. The Electoral Commission has a duty to raise public awareness to ensure that people know when and how to register to vote.

**697.** Local Authority Electoral Registration Officers (EROs) have a duty to maintain a register of electors. EROs must take all steps practicable to maintain the register and as far as possible ensure that all those eligible to vote are included on the register.

**698.** Changes to the franchise will also be communicated via a media campaign.

#### 16.1.7. What are the options under consideration and how does this change the existing situation?

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**699.** Options have been considered in relation to the establishment of a new offence of disclosing information about young people otherwise than in accordance with prescribed requirements:

- Do nothing: A do nothing option was rejected in view of the importance of safeguarding personal information of young people. A prohibition on sharing information (with specific statutory exceptions) is consistent with the General Data Protection Regulation but would be ineffective without a corresponding sanction in the event of breach.
- Other ways to achieve the objective: A civil penalty would have been an alternative means of enforcement or making provision that disclosing

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information without proper statutory authority could have impacted upon an individual's right to vote is a further option. However, it is felt that a summary offence is a proportionate means of addressing this behaviour and the creation of a criminal offence is reflective of the seriousness of disclosing personal data of young people. It is consistent with how similar electoral offences are treated in the *Representation of the People Act 1983*.

#### **16.1.7.1. Ensure fit of new provisions with existing sanctions framework around elections:**

**700.** As far as the proposed new criminal offence is concerned, it is consistent with a very similar approach taken in section 14 of the *Scottish Elections (Reduction of Voting Age) Act 2015*.

**701.** As far as the existing sanctions framework set out in the *2007 Order* is concerned, there are no proposals to change these sanctions: they will apply to the extended group of registered voters once the franchise is extended. The sanctions are for various electoral offences e.g. providing false registration details, multiple voting etc and are robust and effective as a deterrent. There is little evidence of large numbers of electoral offences being committed across the UK and even less in Wales (see figures below). There is also a need to be consistent with existing offences as well as the need to ensure the general population's trust in the protection of young people's data by way of a robust deterrent. The changes to electoral law in Wales and the proposed new summary offence referred to above is not expected to have a material impact on the justice system.

#### **16.1.7.2. Evidence of existing offences across the UK.**

**702.** The Electoral Commission collect, analyse and publish data from police forces across the UK about cases of alleged electoral fraud in the UK each year (beginning in 2010). The latest published figures indicate that the total number of alleged electoral fraud offences across the UK in 2017 was 336. Of these 36 related to electoral registration and 104 related to voting. The most frequent type of registration fraud is providing false information in electoral registration applications.

**703.** The risk of more offences being committed if the franchise is extended to 16- and 17-year olds is considered low.

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16.1.8. If you are creating a new civil sanction or penalty which court or tribunal, in your opinion, should deal with it?

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**704.** Not applicable.

16.1.9. Criminal Offences and Civil Penalties and Sanctions: Which of the following are you creating / amending?

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- Civil Sanctions
- Fixed Penalties
- Civil Orders
- Criminal Sanctions
- Criminal Offences
- Other (Please Specify)

**705.** The existing electoral offences in the *RPA 1983* will potentially apply to a wider range of people in light of the proposed extension of the franchise. It is proposed that the civil penalty in section 9E(4) of the Act (failing to respond to an invitation to register) will not apply to a person who was under the age of 16 at the time that the requirement to make a registration application was imposed.

**706.** As noted above, a new summary criminal offence is being created which addresses disclosure of information about young people (under 16) that has been supplied by an electoral registration officer.

16.1.10. If you are creating a criminal offence, is it summary only, triable either way, or indictable only?

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- Summary Only (heard before a bench of lay magistrates / judge only)
- Triable Either Way
- Indictable Only (heard before a judge and jury)

16.1.11. Who will be responsible for the enforcement of your legislative proposal and how will they take this role forward? Will there be a reduced need for enforcement action?

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**707.** The police would be responsible for investigating an alleged commission of the new offence of disclosing young people's information supplied by an electoral registration officer otherwise than in accordance with statutory criteria. It is not envisaged that the new offence will lead to an increase in enforcement action. Prosecutions for electoral offences are reasonably rare (see below).

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16.1.12. What is the anticipated number of cases per year? Please provide details of any evidence of assumptions on which estimates are based.

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**708.** According to the Office of National Statistics Population Estimates (2017) there were 69,029 16- and 17-year olds in Wales in mid- year 2017.<sup>177</sup> The estimated number of people to be added to the register is therefore 69,029.

**709.** Electoral offences are infrequently prosecuted across the UK. The Electoral Commission's report on analysis of the cases of alleged electoral fraud in the UK in 2017 shows the number of cases was 336. 12 of these cases were reported by Welsh Police forces in 2017 from a total electorate of 2,279,216.

**710.** In 207 of the total cases the police took no further action following the conclusion of their investigations and 82 were resolved locally. At the time the report was published 44 cases were under investigation, in seven cases prosecution advice was awaited, in two cases court procedures were initiated, one person was acquitted, eight people were cautioned, one person was convicted and 13 were reported by the Electoral Commission being as in a category of "other".

**711.** Of the 336 cases the number of cases in each category is:

- Voting – 104 cases, accounting for 31 per cent of all reported cases;
- Campaign – 165 cases, accounting for 49 per cent of all reported cases;
- Nomination – 25 cases, accounting for 7 per cent of all reported cases;
- Registration – 36 cases, accounting for 11 per cent of all reported cases;
- Administration – 3 cases, accounting for 1 per cent of all reported cases;
- Miscellaneous – 3 cases, accounting for 1 per cent of all reported cases.

**712.** Scotland created similar offences on extension to the franchise with respect to releasing young people's electoral data and officials in Scotland have confirmed there has been no increase in cases either in relation to the additional numbers of the electorate or in relation to the new offences.

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<sup>177</sup> Office of National Statistics, [Population Estimates for UK, England and Wales, Scotland and Northern Ireland, June 2017](#)

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16.1.13. Do you expect proceedings to be heard in the Magistrates' Court, the Crown Court, or a Civil Court? What will the proportions be?

**713.** Proceedings for the new offence of disclosing information about young people without statutory authority would be heard in the Magistrates' Court.

**714.** As stated above, there has been little evidence of electoral fraud in Wales so it is estimated that there will be a minimal impact on the Justice System. Figures from Scotland where the franchise was extended to 16- and 17-year olds and a similar offence of disclosing information about young people was created suggest low impact. Officials from Scotland confirm that they have not been informed of any additional electoral offences being prosecuted as a result of the extension of the franchise.

16.1.14. Please state the maximum associated fine and/or custodial penalties.

**715.** The potential fine for the offence of disclosing information about young people without statutory authority is unlimited.

**716.** For context, existing electoral offences can result in fines or imprisonment. Examples are set out below.

| Summary of offence  | Person or persons liable   | Penalty   |
|---|--|---|
| Providing false registration details  | Any person   | Up to six months imprisonment and/or an unlimited fine  |
| Registering when not entitled to do so  | Any person   | Up to six months imprisonment and/or an unlimited fine  |
| Making a false or fraudulent postal, proxy, service declaration and local connection voting application | Any person   | Up to six months imprisonment and/or an unlimited fine  |
| Personation   | Any person (who commits, aids, abets, counsels or procures the commission of the offence of personation) | On summary conviction: an unlimited fine and/or up to six months imprisonment.<br>On indictment: fine and/or up to two years imprisonment |

|   |   |                   |
|---|---|-------------------|
| Voting whilst subject to legal incapacity | Any person  | An unlimited fine |
| Multiple voting                           | Any person  | An unlimited fine |
| Breach of official duty                   | Clerk of the Crown or their deputy, the registration officer, returning officer, any person whose duty it is to be responsible after a parliamentary or local government election for used ballot papers and other documents. | An unlimited fine |

16.1.15. Please provide details of any proxy or current offences and / or penalties on which the proposed penalties are based.

| Summary of offence  | Person or persons liable   | Penalty  |
|---|--|--|
| Providing false registration details  | Any person   | Up to six months imprisonment and/or an unlimited fine   |
| Registering when not entitled to do so  | Any person   | Up to six months imprisonment and/or an unlimited fine   |
| Making a false or fraudulent postal, proxy, service declaration and local connection voting application | Any person   | Up to six months imprisonment and/or an unlimited fine   |
| Personation   | Any person (who commits, aids, abets, counsels or procures the commission of the offence of personation) | On summary conviction: an unlimited fine and/or up to six months imprisonment. On indictment: fine and/or up to two years imprisonment |
| Voting whilst subject to legal incapacity   | Any person   | An unlimited fine  |
| Multiple voting   | Any person   | An unlimited fine  |

|   |  |   |
|---|--|---|
| Breach of official duty   | Clerk of the Crown or their deputy, the registration officer, returning officer, any person whose duty it is to be responsible after a parliamentary or local government election for used ballot papers and other documents | An unlimited fine                                 |
| Wilfully making a false statement or signatures in nominations papers | Candidate  | Up to 1 year maximum sentence and unlimited fine. |

**717.** The new offence of disclosing young people’s electoral reform information is based on the Scottish offence in section 14 of their *Scottish Elections (Reduction in Voting Age) Act 2015 Act*. The unlimited fine element is consistent with other electoral offences.

16.1.16. Please provide details of the relevant legislation (where appropriate) and confirm whether the creation or amendment of criminal offences and penalties has been agreed in line with the guidance available

**718.** Election offences are set out in the *RPA 1983*. The proposals have taken account of the guidance on making new criminal offences. There is minimal election fraud in the UK. Wales in particular has few reported cases of electoral fraud so it is possible that the existing sanctions contribute toward deterrent. Trust in elections is paramount to the general public having faith in free and fair elections and a robust deterrent is in the public interest.

16.1.17. What will be the short, medium and lifelong implications for an individual found guilty of this offence, and how is this proportionate to the offence created?

**16.1.17.1. Disclosing information about a young person contrary to statutory restrictions.**

**719.** In terms of this new offence, the short-term implications would be the immediate payment of a fine if a person were found guilty. There may be reputational damage arising from a conviction which could have medium term implications. It is not considered that there are lifelong implications from the conviction for this offence.

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**720.** The penalty is considered proportionate in the context of the sensitivities around personal information about young people and the need to ensure that it is treated carefully and that its disclosure is subject to restrictions. Electoral information about young people under the age of 16 will include details of names, ages and addresses and it is important (and consistent with the General Data Protection Regulation) that there are limitations placed on the further disclosure of that information, backed up with an appropriate sanction.

**16.1.17.2. Other impacts**

**721.** A conviction for this offence won't form part of any credit report.

16.1.18. Does this legislation impose any duty on the public sector?

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**722.** No.

16.1.19. Estimating the change to caseload of the Courts and Tribunals Service (including devolved tribunals)

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**723.** The new offences created would be tried in the Magistrates' Courts. However, previous paragraphs have outlined that the available evidence suggests that electoral offences across the UK are low. Consequently, the likelihood of an increase in the number of cases in Wales is considered low. It is not anticipated that changes in court process will be required, as existing criminal court processes will apply.

**724.** Evidence from Scotland where the franchise was increased to include 16-year olds shows that there has been little impact on the Courts or on Tribunal Services.

16.1.20. Please confirm if the courts / tribunals would be under any duty to inform any regulatory authorities of any convictions made under this offence.

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**725.** Not applicable.

16.1.21. Appeal Rights: Does your proposal create a new right of appeal or expand an existing jurisdiction in the Unified Tribunals System or route to judicial review?

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**726.** Not applicable.

16.1.22. Do you expect to establish a new tribunal jurisdiction?

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**727.** Not applicable.

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16.1.23. To what extent could the use of alternative dispute resolution (ADR) procedures (including mediation) be appropriate?

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**728.** Not applicable.

16.1.24. If the proposal is to add a new offence, will the Crown Prosecution Service act to prosecute defendants? If not, please identify who will prosecute.

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**729.** The new offence of disclosing information about a young person would be dealt with by the Crown Prosecution Service.

16.1.25. Will the proposal require enforcement mechanisms for civil debts, civil sanctions or criminal penalties? If yes, who do you expect to enforce these?

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**730.** Yes - In the case of the new offence of disclosing information about a young person, the penalty will be an unlimited fine which will be enforced through the usual Court mechanisms.

16.1.26. HMCTS Procedural Rules, Sentencing and Penalty Guidelines: Do you anticipate that Court and/or Tribunal procedural rules will have to be amended?

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**731.** Not applicable.

16.1.27. Will the proposals require sentencing and / or penalty guidelines to be amended?

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**732.** Not applicable

16.1.28. Legal Aid and Court Fees: What evidence is there that individuals affected by your proposal will be able to afford: legal representation and legal advice in order to secure a fair hearing of their case; associated court fees

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**733.** Each local authority is required to appoint an officer of the council to be the Returning Officer and an officer of the council to be an Electoral Registration Officer. In Wales, it is common practice for both of these roles to be held by the Chief Executive. Most Chief Executives are paid a salary of more than £100,000 per annum: as such, the risk of Chief Executives not being able to afford their legal expenses and court fees is considered very low.

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**734.** The Electoral Commission’s guidance for local government and Assembly elections reminds Returning Officers that they are personally responsible for the conduct of the elections and a part of their planning should be able to demonstrate that they have adequate insurance cover.

**735.** Individuals other than Chief Executives of local authorities could also be charged with the offence and are likely to be from a variety of socio economic groups so it is difficult to assess their ability to accommodate legal costs. Individuals charged with a summary offence will need to make an application for legal aid. The decision of whether to grant legal aid or not will depend on the individual circumstances with respect to the individual’s ability to pay their own legal costs and the interests of justice test. Where the punishment is a fine, it is unlikely to pass the interest of justice test and the individual would not be granted legal aid.

**736.** It is also the case that defendants who are acquitted of an offence that they are charged with may be able to recover their legal costs (or a proportion of them) – section 16 of the *Prosecution of Offences Act 1985* provides that courts may order that an acquitted defendant who has privately funded his legal representation should have his or her legal costs reimbursed out of central funds. The *Costs in Criminal Cases (General) Regulations 1986* also apply.

16.1.29. Once implemented, is your proposal likely to require individuals to seek legal advice and to apply for legal aid in any of the following areas?

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- Criminal
- Civil (including Family)
- Asylum
- Legal aid not available (please provide supporting evidence)

**737.** In respect of summary offences, those who are charged with a summary election offence will be subject to the usual interests of justice and means tests that apply to legal aid applications. It is considered that in the case of a summary offence where the penalty is a fine, it is unlikely that an individual would pass the legal aid “interests of justice” test and be eligible for legal aid.

16.1.30. If legal aid may be affected, would legal aid costs increase or be reduced (and by what margin)?

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**738.** Not applicable.

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16.1.31. Will the proposals result in a change in the number of offenders being committed to custody (including on remand) or probation (including community sentences)?

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**739.** The Electoral Commission’s report “Analysis of cases of alleged electoral fraud in the UK in 2017”, found that of the 336 cases of alleged fraud reported in 2017 there was one conviction, one acquittal, two cases of court proceedings initiated and seven cases where prosecution advice was awaited.<sup>178</sup>

**740.** It is considered that the policy proposals are unlikely to increase the number of offenders being committed to custody.

16.1.32. Does the proposal create, remove or change an existing offence with a custodial or probationary sentence, or change the way offenders go through the prison / probation service?

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**741.** Existing offences are unchanged and there are no proposals to create custodial sentences.

## 16.2. Justice Impact Assessment 2: Remaining provisions of the Senedd and Elections (Wales) Bill

**742.** The second Justice Impact Assessment examined those elements of the *Senedd and Elections (Wales) Bill* which did not relate to extending the Assembly franchise. The Impact Assessment is detailed below.

### 16.2.1. What is the proposal?

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**743.** The proposals below update the way the National Assembly for Wales functions. A Bill will be introduced by the Llywydd (Presiding Officer) that will include the following matters:

- Changing the name of the Assembly to “Senedd”. The Senedd may also be known as the Welsh Parliament. This will benefit the Welsh public by being a more readily understood description of the role of the institution. There will be no negative effect beyond the limited costs involved in implementation.
- Updating the disqualification provisions in *the GOWA 2006* to enable most disqualifying offices to be capable of being resigned between the election and taking the oath, rather than being a bar to candidature.

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<sup>178</sup> Electoral Commission, “[Analysis of cases of alleged electoral fraud in the UK in 2017](#)”, March 2018.

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The changes will benefit the public and political parties by providing a greater choice of candidates. The only persons adversely affected will be other potential candidates faced with a greater competition for a candidacy. Members of the House of Lords will be disqualified unless they have taken leave of absence. This is in line with the existing disqualification of Members of Parliament. See section 16.2.2 for references to the effect on offices in the criminal justice system.

- Providing Welsh Ministers with an express power to implement recommendations to be made by the Law Commission to simplify election law. The power itself will have no direct benefits or adverse effects. Existing powers may be sufficient, but that cannot be certain until the final recommendations are published. It is therefore considered to be more certain, as well as more transparent, to take the opportunity to provide an express power.
- Making minor changes to the Assembly's internal arrangements such as changing the date by which the first meeting after an Assembly general election may be held and providing an express power to charge for services. These changes will have no direct benefits or negative impacts beyond the indirect impact of enabling the institution to operate more effectively.

**744.** None of these can be achieved without legislation.

**745.** No new offences will be created. There will be a lower risk of candidates being at risk of prosecution for making a false declaration that they are not disqualified as that will apply to the much smaller range of offices that will be a bar to candidature.

**746.** The Bill also extends the franchise for Assembly elections to most 16- and 17-year olds. A specific Justice Impact Assessment was conducted on this issue (detailed in chapter 16.1).

16.2.2. Please specify the name of this (and any related) legislation.

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**747.** The proposed title is the *Senedd and Elections (Wales) Bill*.

**748.** Relevant provisions of this legislation will be commenced upon Royal Assent, two months thereafter, on a fixed future date (name change) and by commencement order. The disqualification provisions will take effect upon the dissolution of the present Assembly for the 2021 Assembly general election.

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**749.** Some existing disqualification provisions apply by reference to those that apply to the House of Commons. These will be made more accessible by being restated (and amended) by being set out more fully in the *GOWA 2006*.

**750.** In the context of a justice impact assessment, it is not proposed to retain the automatic disqualification of Scottish and Northern Irish judges under the existing link with House of Commons disqualification provisions. The possibility of their seeking to be candidates in Wales is considered to so remote for that to be unnecessary. Social Security Commissioners are currently disqualified in the same way. They will not be specified in the Bill, and are expected to be added to the list of offices that would be a bar to membership of the Assembly, but may be resigned following election.

**751.** There will no longer be a blanket ban on police officers being candidates, though it is anticipated that they will be specified in the disqualification order as offices to be resigned if such an individual is elected.

16.2.3. Please indicate the anticipated date when the legislative changes are expected to come into force and the date when the first anticipated impact on the justice system will arise.

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**752.** The limited impact foreseen on the justice system (in relation to disqualification) will not be before the 2021 Assembly general election.

16.2.4. If altering or introducing an offence, sanction or penalty, which of the following groups will the proposal affect and in what circumstances? (Tick all that apply)

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**753.** Not applicable.

16.2.5. Does your legislation only have impact in Wales?.

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- Wales only
- England
- Scotland
- Northern Ireland
- Other (Please Specify)

**754.** Although final recommendations of the Law Commission will have implications for all parts of the UK, the powers included in this Bill only apply to devolved Welsh elections. The Commission's objectives are to reduce unnecessary differences between the laws relating to electoral administration in different parts of the UK.

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16.2.6. Will your legislation directly impact visitors to Wales?

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**755.** The disqualification provisions will be significantly different from other parts of the UK, for example by providing that successful candidates will be able to resign disqualifying offices before taking the oath of allegiance. It is anticipated that close collaboration with the Electoral Commission and electoral administrators in Wales will ensure that the differences are drawn to the attention of the political parties and candidates generally.

16.2.7. What are the options under consideration and how does this change the existing situation?

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**756.** The changes proposed can only be achieved by legislation.

16.2.8. If you are creating a new civil sanction or penalty which court or tribunal, in your opinion, should deal with it?

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**757.** Not applicable.

16.2.9. Criminal Offences and Civil Penalties and Sanctions: which of the following are you creating / amending? (Tick all that apply)

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- Civil Sanctions
- Fixed Penalties
- Civil Orders
- Criminal Sanctions
- Criminal Offences
- Other (Please Specify)

**758.** None of the above.

16.2.10. Who will be responsible for the enforcement of your legislative proposal and how will they take this role forward? Will there be a reduced need for enforcement action?

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**759.** The revised disqualification provisions will be enforced by the police, CPS and courts as now, but there is expected to be a reduced need for enforcement action because the requirement for candidates to declare that they are not disqualified will apply to a much shorter list of offices.

16.2.11. What is the anticipated number of cases per year? Please provide details of any evidence of assumptions on which estimates are based.

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**760.** There have been only two possible instances of making a false declaration in relation to disqualification at Assembly elections since 1999. Both the relevant

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offices would have been resignable under the proposed changes and would therefore not have given rise to investigation. We therefore estimate that at most Assembly elections in future, as in the past, there would be no cases.

16.2.12. Do you expect proceedings to be heard in the Magistrates' Court, the Crown Court, or a Civil Court? What will the proportions be?

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**761.** There have been no proceedings at the past five Assembly general elections. This is not expected to change.

16.2.13. Please state the maximum associated fine and/or custodial penalties.

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**762.** Not applicable.

16.2.14. Please provide details of any proxy or current offences and / or penalties on which the proposed penalties are based.

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**763.** Not applicable.

16.2.15. Please provide details of the relevant legislation (where appropriate) and confirm whether the creation or amendment of criminal offences and penalties has been agreed in line with the guidance available

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**764.** Not applicable.

16.2.16. What will be the short, medium and lifelong implications for an individual found guilty of this offence, and how is this proportionate to the offence created?

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**765.** Not applicable.

16.2.17. Does this legislation impose any duty on the public sector? If so, please provide your assessment of the likelihood of individuals or businesses taking action against the public sector for non-compliance with this legislation.

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**766.** The only duties will be implicit (i.e. on the Assembly to change its own name). There is no risk of action for non-compliance, and no sanction on other organisations if they use the wrong name.

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16.2.18. Do you expect there to be a change in Court or Tribunals process or an increase / decrease in applications / cases to HM Courts and Tribunals Service and / or the Welsh Tribunals through the creation or amendment of this law?

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**767.** No change anticipated.

16.2.19. Please confirm if the courts / tribunals would be under any duty to inform any regulatory authorities of any convictions made under this offence.

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**768.** Not applicable.

16.2.20. Does your proposal create a new right of appeal or expand an existing jurisdiction in the Unified Tribunals System or route to judicial review?

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**769.** Not applicable.

16.2.21. Do you expect to establish a new tribunal jurisdiction?

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**770.** Not applicable.

16.2.22. To what extent could the use of alternative dispute resolution (ADR) procedures (including mediation) be appropriate?

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**771.** Not applicable.

16.2.23. If the proposal is to add a new offence, will the Crown Prosecution Service act to prosecute defendants? If not, please identify who will prosecute.

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**772.** Not applicable.

16.2.24. Will the proposal require enforcement mechanisms for civil debts, civil sanctions or criminal penalties? If yes, who do you expect to enforce these?

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**773.** Not applicable.

16.2.25. Do you anticipate that Court and/or Tribunal procedural rules will have to be amended?

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**774.** Not applicable.

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16.2.26. Will the proposals require sentencing and / or penalty guidelines to be amended?

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**775.** Not applicable.

16.2.27. What evidence is there that individuals affected by your proposal will be able to afford: legal representation and legal advice in order to secure a fair hearing of their case; associated court fees?

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**776.** Not applicable.

16.2.28. Once implemented, is your proposal likely to require individuals to seek legal advice and to apply for legal aid?

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**777.** Not applicable.

16.2.29. If legal aid may be affected, would legal aid costs increase or be reduced (and by what margin)?

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**778.** Not applicable.

16.2.30. Will the proposals result in a change in the number of offenders being committed to custody (including on remand) or probation (including community sentences)?

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**779.** No change.

16.2.31. Does the proposal create, remove or change an existing offence with a custodial or probationary sentence, or change the way offenders go through the prison / probation service?

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**780.** No.

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## 17. Equality Impact Assessment

### 17.1. Name of Legislation

**781.** The *Senedd and Elections (Wales) Bill*.

### 17.2. Date of impact assessment

**782.** This impact assessment was initiated in March 2017 and maintained on ongoing basis until the introduction of the Bill in February 2019.

### 17.3. Purpose of this impact assessment

**783.** This equality impact assessment has been undertaken in accordance with the requirement of paragraph 8(1) of Schedule 2 of the *GOWA 2006*.

**784.** The purpose of this equality impact assessment is to identify whether, as a consequence of the Bill's provisions, there are any potential or actual differential impacts on people with protected characteristics set out in the *Equality Act 2010*. It also describes actions needed to mitigate or eliminate any negative differential impacts and identifies opportunities to maximise positive impacts on people with protected characteristics.

### 17.4. Introduction: who has been involved/or consulted with as part of developing this impact assessment?

**785.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment, including those received from the Equality and Human Rights Commission. Informal discussions were also held with a number of stakeholders, including the office of the Children's Commissioner for Wales, to inform the development of this impact assessment.

### 17.5. Equality impacts

#### 17.5.1. Age

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**786.** Following the two consultation exercises and research, the following policy changes implemented by the Bill are not considered to have a differential impact in relation to age:

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- name of the Assembly;
  - a duty on the Senedd to consider the financial and oversight arrangements of the Electoral Commission;
  - implementation of Law Commission recommendations for rationalisation of electoral law;
  - date of the first meeting of the Assembly; and
  - powers of the Assembly Commission.

**787.** Two policy changes are considered to have a differential impact in relation to age:

- franchise: minimum voting age of 16;
- disqualification from being an Assembly Member.

#### **17.5.1.1. Franchise: Minimum voting age of 16**

**788.** The right to vote in Assembly elections is known as the Assembly franchise. The current minimum voting age is 18.

**789.** In developing this section of the Equality Impact Assessment, particular consideration has been given to:

- Protocol 1, Article 3 of the *Human Rights Act* which requires the government to undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of legislature.
- Article 14 of the *Human Rights Act* which requires that the enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

**790.** Particular consideration has also been given to equality issues raised in the various consultations associated with lowering the voting age. These are detailed in the paragraphs below.

**791.** The available evidence suggests that young people themselves consider that the voting age should be lowered. The Fourth Assembly's Presiding Officer, Dame

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Rosemary Butler, led a consultation<sup>179</sup> on whether 16- and 17-year olds should be entitled to vote. Although not designed as a methodologically robust statistical exercise, over 10,000 young people from across Wales took part in the consultation. Of these 53 per cent said yes to lowering the voting age, 29 per cent said no, and 18 per cent were unsure.

**792.** Similarly, when the Assembly's Education and Youth Engagement team ran workshops with young people to collect their views on the Expert Panel's proposal to allow 16- and 17-year olds to vote at future Assembly elections, they found that:

- Over half of young people asked about the appropriate minimum voting age for Assembly elections were in favour of lowering it from 18 to 16. A third of them were in favour of retaining it at 18.
- Young people who claimed to have significant interest in and knowledge of politics were more supportive than other young people of lowering the minimum voting age from 18 to 16.

**793.** The available evidence also suggests that there is a public majority in favour of lowering the voting age. The majority of respondents (59 per cent) to the Assembly Commission's consultation, *Creating a Parliament for Wales*, felt that the voting age should be lowered to 16.<sup>180</sup>

**794.** 15 of the 20 organisations that responded to the *Creating a Parliament for Wales* noted that the minimum voting age for Assembly elections should be lowered to 16. They include the Electoral Reform Society Cymru, Maesteg Town Council, National Union of Students Wales, Hansard Society, Children's Commissioner for Wales, Women's Equality Network (WEN) Wales, Mudiad Meithrin, Chwarae Teg, the Chartered Society of Physiotherapy Cymru, Welsh Liberal Democrats, Wales Green Party and the Morgan Academy. Four organisations indicated that the minimum voting age should be 18, including Cyngor Cymuned Llanpumsaint and Flintshire 50+ Action Group.

**795.** The *Creating a Parliament for Wales* consultation also asked respondents to identify the benefits of reducing the minimum voting age. Benefits identified by respondents included:

- improved political engagement and participation;

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<sup>179</sup> National Assembly for Wales, [Should the voting age be lowered to 16? Summary of responses to the Presiding Officer's "Vote@16?" consultation for 11-25 year olds in Wales, July 2015](#)

<sup>180</sup> National Assembly for Wales, [Creating a Parliament for Wales: Consultation report, October 2018](#)

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- improved representation;
  - better democracy;
  - higher turnout at elections, with some noting that young people given the vote would continue voting into later life;
  - better informed voters as a result of the delivery of political and citizenship education to accompany a lowering of the minimum voting age;
  - policies that would be more focused on young people; and
  - empowerment of young people and making them feel that their voices are being heard.

**796.** For example, a member of the public commented that:

“The benefits would bring young people into the political system at a time of their lives when they have enthusiasm and drive. This should be stimulated through their education by schools, parents and all who have access to young people development.

As a parent I can see enormous value of my child being able to vote while she is still living with us before going to university. This would help make voting and political participation a habit.

The more younger people that are involved in their future the better it will be for all of us.”

**797.** A number of respondents also referred to the importance of citizenship or political education. Some went as far as to say this education should be compulsory in schools. The benefits of citizenship or political education, according to respondents, included ensuring that young voters are informed; and helping to address apathy towards politics. For example, one member of the public asked:

“Please consider introducing votes at 16 as part of a reform of education policy so that from the start of formal education in primary school, pupils are taught about what elections are, how they work, what they are used for and government in general.”

**798.** A small number of respondents questioned whether this education would be delivered in a politically impartial way.

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**799.** A small number of respondents to the *Creating a Parliament for Wales* consultation were concerned about the preparedness of 16- and 17-year olds to vote with some noting concern about the maturity of 16- and 17-year olds, and the ease with which the political views of 16- and 17-year olds would be influenced, should they be given the vote, with particular reference to the influence of social media.

**800.** 20 organisations indicated they were in favour of lowering the minimum voting age to 16, including the Electoral Reform Society Cymru, National Union of Students Wales, the Children’s Commissioner for Wales, Mudiad Meithrin, the Hansard Society, Women’s Equality Network (WEN) Wales and others.

**801.** Two organisations noted their opposition to a lowering of the voting age: the Abolish the Welsh Assembly Party and Flintshire 50+ Action Group.

**802.** The extension of the franchise 16- and 17-year olds will, by definition, impact directly on one group with a protected characteristic: i.e. young people. 16- and 17-year olds will for the first time be able to vote in Assembly elections from 2021. Young people of this age will have access to political education in schools and the support structures to help them vote for the first time. In assessing the equality-related evidence gathered through varied consultation exercises it has been concluded that legislating to adjust the current franchise to a minimum voting age of 16 has the potential to provide for a positive opportunity to promote equality of opportunity for 16- and 17-year olds. However, the Welsh Government will need to work closely with local authorities and organisations who work with young people that are not in education, employment or training (NEETs) to ensure they are aware of their right to vote and are engaged with the political process.

**803.** It may be noted that although the Bill enfranchises most 16- and 17-year olds to vote in Assembly elections, it will not enfranchise children aged 15 years and under. A full explanation of the reasons for this is provided in section 19.4.4 of the Children’s Rights Impact Assessment in this document.

#### **17.5.1.2. Non-enfranchisement of non-EU and non-Commonwealth citizens**

**804.** It may be noted that not all 16- and 17-year olds in Wales will be enfranchised with the vote at Assembly elections. 16- and 17-year olds who are non-EU and non-Commonwealth citizens will not be enfranchised with the vote, and while this group is likely to be small in number, it is likely to include both refugees and people from BME communities.

**805.** The Bill’s rationale for not enfranchising this group is set out in further detail in the following Children’s Rights Impact Assessment, and the assessment of the

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Bill's impact on Human Rights (set out below, as part of this Equality Impact Assessment). In summary, there are a number of arguments both for and against enfranchising this group.

**806.** Arguments in favour of enfranchising this group include that:

- such persons pay taxes, and otherwise participate in civic society; and
- a majority (66 per cent) of respondents to the Assembly Commission's consultation *Creating a Parliament for Wales*<sup>181</sup> supported a statement that all residents of Wales should be able to vote in Assembly elections, irrespective of nationality.

**807.** Arguments in favour of not enfranchising this group include that:

- voting may be perceived as a manifestation of the relationship that exists between citizen and nation-state; and
- the rights of a citizen (including voting rights) are associated with corresponding responsibilities to a nation-state (for example, the responsibility to report for jury service when called, and to attend for as long as it takes to find a verdict).

**808.** As set out in the Children's Rights Impact Assessment, there are finely balanced arguments around this issue, and the Assembly may wish to give further consideration to this matter during its legislative scrutiny of the Bill.

**809.** However, for the purpose of introducing the Bill, the Assembly Commission has determined that there is not currently a clear political consensus on this issue due to the complexity of the finely balanced arguments around it. In the absence of such a consensus, it is not appropriate for a cross-party body to make changes to the law. For this reason, the Bill maintains a legal status quo on this matter: i.e. that non-EU and non-Commonwealth residents would not be able to vote in Assembly elections. By default, this approach must also be extended to 16- and 17-year old non-EU and non-Commonwealth residents, because it would be wholly inappropriate for 16- and 17-year olds to be enfranchised with the vote, and then have this right removed at 18.

**810.** There remains a risk that such young persons may feel excluded or discriminated against, as their counterparts will be provided with a right that they are not. However, it is anticipated that this risk will be mitigated by political

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<sup>181</sup> National Assembly for Wales Commission, *Consultation on Creating a Parliament for Wales: Summary of the main findings*, July 2018

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education and public information campaigns (that are aimed at promoting awareness of the change in voting age) including clear explanations around who can and cannot vote in Assembly elections. It is anticipated that such information will include detail on how people not currently enfranchised could become eligible to vote in the future (i.e. by becoming a British citizen). Public information campaigns will also identify that non-EU and non-Commonwealth residents who are not currently enfranchised will:

- be able to vote for bodies that do not have primary law-making powers, in elections to the Youth Parliament and local government (subject to the legislative passing of the Welsh Government's forthcoming Local Government and Elections (Wales) Bill);
- still be represented by Members of the National Assembly for Wales (in the same way that children of 15 years and under would be);
- still be able to directly participate in the work of the National Assembly for Wales through public petitions and engagement with committee inquiries, etc.

**811.** It may also be noted that the Bill would not enfranchise any 16- and 17-year olds who do not have the legal right to be in the UK at the time of seeking to register. This may include asylum applicants (refugees). Again, it is anticipated that public information campaigns will include clear explanations around who can and cannot vote in Assembly elections, to mitigate any confusion this may cause.

### **17.5.1.3. Non-enfranchisement of Prisoners, including Youth Offenders**

**812.** Another group of 16- and 17-year olds who will not be enfranchised with the vote at Assembly elections are Youth Offenders. The Bill's rationale for not enfranchising this group is set out in further detail in the following Children's Rights Impact Assessment.

**813.** In summary, there is a substantial range of legal, ethical, democratic, practical and human rights issues relating to prisoner voting, which require thorough consideration and judgement. Although the *Creating a Parliament for Wales* consultation was brought to the attention of a range of justice, prison, and victim support stakeholders, only 12 organisations responded to questions on prisoner voting, none of which represent prisoners, prisons or victims of crime. This points to the need for further stakeholder engagement work and evidence gathering before conclusions are reached on whether, and, if so, how and when, prisoners should be enfranchised in Wales.

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**814.** As such, the *Senedd and Elections (Wales) Bill* does not seek to address the issue of prisoner voting, including voting by youth offenders. Instead, on 6 September 2018 the Llywydd wrote to the Equality, Local Government and Communities Committee to indicate that she would strongly welcome the Committee undertaking an inquiry to examine the principle of whether prisoners – including youth offenders – should be allowed to vote in Assembly elections. It is anticipated that the Committee’s analysis of this issue will provide a substantive evidence basis with which to address the legal, ethical, democratic, practical and human rights issues relating to prisoner voting - including youth offender voting- and thereby determine the potential for addressing this matter in future legislation.

**815.** For this reason, the Bill does not extend the right to vote in Assembly elections to those 16- and 17-year olds who will be prohibited from voting by the *Representation of the People Act 1983*. This decision has been taken in light of the need for further examination of the associated legal, ethical, democratic, practical and human rights issues outlined above.

**816.** However, it is anticipated that youth offenders in prisons will still have the opportunity to learn about voting through the education they receive in prison. Although such young persons will not have the opportunity to vote while in prison, it is important to note that they will be able to vote after they leave prison, and as such should not be denied access to opportunities to learn about their voting rights.

#### **17.5.1.4. Registering to vote**

**817.** Finally, it may be noted that although the Bill enfranchises most 16- and 17-year olds, it does not automatically follow that all enfranchised 16- and 17-year olds will necessarily register to vote.

**818.** Historic evidence suggests that individuals with protected characteristics are less likely to register to vote and less likely to exercise their right to vote. In September 2018, the House of Commons Library produced a briefing paper<sup>182</sup> which indicated that:

- young people were less likely than other age groups to be on the electoral register, and to vote;

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<sup>182</sup> House of Commons Library, *Political disengagement in the UK: who is disengaged?* Briefing paper CBP-7501, September 2018.

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- ethnic minorities were less likely to be on the electoral register, although this is likely to be explained by factors other than their ethnicity, and to vote;
  - unskilled workers and the long-term unemployed were also less likely to be on the electoral register and to vote; and
  - people with physical disabilities were more likely to be included on the electoral register than any other group but are less likely to vote.

**819.** Similarly, in its publication *Is Wales Fairer?: The state of equality and human rights 2015*<sup>183</sup> the Equality and Human Rights Commission cited UK evidence that suggests young people, people from some ethnic minorities and people from lower socioeconomic groups were less likely to register to vote than other persons. Clearly some young people fall into one or both of those latter categories of persons, which may increase even further the likelihood that they do not register to vote.

**820.** This indicates that some people with protected characteristics, including young people, are less likely to register to vote, less likely to vote, and more likely to experience difficulty when casting their vote.

**821.** One of the policy objectives of the *Senedd and Elections (Wales) Bill* is to enable a longer-term, maintained engagement in democratic politics, including amongst groups with protected characteristics. At the 2014 Scottish independence referendum, turnout of 16- and 17-year olds was estimated at 75 per cent. By contrast, turnout amongst 18-24 year olds (who would historically have been categorised as “young” people) was 54 per cent.<sup>184</sup> This suggests that 16- and 17-year olds, including those with protected characteristics, may be more likely than 18- to 24-year olds to register and seek to vote. It is believed that an early experience of voting could lead to maintained engagement. The lowering of the voting age could therefore lead- in the longer term- to increased engagement in voting, including amongst groups with protected characteristics.

**822.** A campaign to promote awareness of the change in voting age, and associated education around the rights of 16- and 17-year olds to vote may also have a beneficial impact on increasing voting registration amongst groups with protected characteristics.

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<sup>183</sup> Equality and Human Rights Commission, *Is Wales Fairer?*, December 2015

<sup>184</sup> Electoral Commission, *Scottish Independence Referendum: Report on the Referendum Held on 18 September 2014*, December 2014

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**823.** The “Active citizenship” theme in the existing Personal and Social Education (PSE) framework, the key document which schools and colleges should use to review and develop existing PSE provision for 7 to 19-year-olds, allows learners to develop their knowledge on politics and their rights in a democratic society which reflects the United Nations Convention on the Rights of the Child. This should mean a more politically aware section of the population.

**824.** It is also anticipated that in developing education resources, particular regard will be given to young people with special education needs, young people who are not in school, and young people who are being home-schooled. It is important that such persons are not inadvertently excluded from voting, through a lack of awareness and education materials.

**825.** Under section 19 of the *Education Act 1996*, local authorities must arrange for suitable education to be provided other than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not receive suitable education unless such arrangements are made for them. Local authorities therefore have a duty to provide suitable education for pupils outside the school setting for learners of compulsory school age who might not otherwise receive any education on voting issues.

**826.** One group of young people who may not be captured as part of a local registration campaign could be young people from the Gypsy, Roma and Traveller communities. However, as part of its responsibilities to promote awareness of elections, the Electoral Commission works with the Traveller Movement to encourage registration. It is anticipated that the Welsh Government will work with the Electoral Commission to replicate this approach in the canvass for 2020.

#### **17.5.1.5. Disqualification from being an Assembly Member**

**827.** A tenuous argument can be made that disqualifying Members of the House of Lords from simultaneously being Assembly Members could have a greater impact on older persons, and could lower the average age of Assembly Members (if such Members did not take a leave of absence from the House of Lords). This is because the average age of a Member in the National Assembly is 53<sup>185</sup> whereas the average age of a Member of the House of Lords during the same period is 70<sup>186</sup>.

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<sup>185</sup> Information provided by the Assembly Commission’s Members’ Business Support team, November 2018.

<sup>186</sup> Information provided by Enquiry Service, House of Lords External Communications, September 2018.

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**828.** However, as Members of the House of Lords affected by this disqualification would have the option of taking a leave of absence from the House of Lords, or retiring or otherwise resigning as a member of the House of Lords, the impact of this disqualification in relation to age is considered to be negligible. The number of persons affected is also likely to be very low.

## 17.5.2. Disability

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### 17.5.2.1. Registering to vote

**829.** In its report *Elections for everyone: Experiences of people with disabilities at the 8 June 2017 UK Parliamentary general election*, the Electoral Commission described the difficulties faced by disabled people when exercising their right to vote and recommend that “the Government should look at different ways that people with disabilities can vote so that they have greater flexibility and choice”.<sup>187</sup>

**830.** It is not considered that any of the changes to the arrangements for registering to vote in Assembly elections resulting from this Bill will have an impact directly in relation to disability.

**831.** Existing support to help people with disabilities to register and to vote will extend to 16- and 17-year olds. For example, the UK Digital Registration Service includes an easy read version of instructions for using the service. The Electoral Commission publish a guide to voting which details how disabled voters can get help to cast their vote independently, and in secret, or as a proxy voter.<sup>188</sup>

**832.** Disabled voters can:

- ask the Presiding Officer of the polling station to mark the ballot paper for them;
- bring someone to the polling station to help them vote;
- use a plastic device that is fixed onto the ballot paper to help them vote; and
- see a large-print version of the ballot paper.

**833.** Councils decide where to set up polling stations in their area. When doing so they need to consider access for disabled voters. If someone is unable to enter the

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<sup>187</sup> Electoral Commission, *Elections for everyone: Experiences of people with disabilities at the 8 June 2017 UK Parliamentary general election*, November 2017, p.1

<sup>188</sup> The Electoral Commission, [www.electoralcommission.org.uk/i-am-a/voter/how-to-vote](http://www.electoralcommission.org.uk/i-am-a/voter/how-to-vote)

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polling station because of a physical disability, the Presiding Officer for their polling station can take the ballot paper to them.

**834.** It is worth noting that the Welsh Government is considering changes to voting methods and arrangements that would, if implemented and applied to Assembly elections, help to address barriers to voting including those relating specifically to disability.

**835.** Following the two consultation exercises and research, the following policy changes implemented by the Bill are not considered to have a differential impact in relation to disability:

- Name of the Assembly;
- A duty on the Senedd to consider the financial and oversight arrangements of the Electoral Commission;
- Implementation of Law Commission recommendations for rationalisation of electoral law;
- Date of the first meeting of the Assembly;
- Powers of the Assembly Commission;
- Franchise: Minimum voting age of 16; and
- Disqualification from being an Assembly Member.

#### 17.5.3. Gender reassignment/gender identity

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**836.** Following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a differential impact on people in this protected group.

#### 17.5.4. Marriage and civil partnership

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**837.** Following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a differential impact on people in this protected group.

#### 17.5.5. Pregnancy and Maternity

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**838.** Following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a differential impact on people in this protected group.

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## 17.5.6. Race

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### 17.5.6.1. Registering to vote

**839.** Whilst the franchise will be extended to 16- and 17-year olds, the current categories of persons who cannot vote will remain. Therefore, it is only British, EU and qualifying Commonwealth citizens who will be able to vote in Assembly elections. Non-Commonwealth and non-EU citizens resident in Wales will not be able to vote (both 16- and 17-year olds and adults). Those who are not being enfranchised could also include refugees and 16- and 17-year olds from BME communities. In order to help mitigate any possible impacts arising from not enfranchising these groups, political education and communication campaigns will make clear who may vote in Assembly elections in order that young people belonging to such groups and others understand their rights clearly.

**840.** As noted above, in its publication *Is Wales Fairer?: The state of equality and human rights 2015*<sup>189</sup> the Equality and Human Rights Commission cited UK evidence that suggests people from some ethnic minorities were less likely to register to vote than other persons.

**841.** The *Senedd and Elections (Wales) Bill* does not contain provisions that are directly intended to address this issue. However, it is possible that a wide ranging campaign and education aimed at promoting awareness of young people's right to vote in Assembly elections may indirectly have a positive impact on this issue, as it will be directed at all young people, including those from ethnic minorities. It is also possible that if young people decide to register to vote – as a result of education and awareness raising activities – this may prompt older family members to also register to vote.

**842.** Following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a negative impact on people in this protected group, and may indirectly have a positive impact.

## 17.5.7. Religion and belief or non-belief

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**843.** Following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a differential impact on people in this protected group.

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<sup>189</sup> Equality and Human Rights Commission, *Is Wales Fairer?*, December 2015

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**844.** In forming this conclusion, it was noted that education materials developed to assist in the teaching of young people’s right to vote in Assembly elections will be adaptable to a variety of contexts, including home schooling.

#### 17.5.8. Sex

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**845.** A tentative argument could theoretically be made that the disqualification of members of the House of Lords will disproportionately affect men rather than women. This is because – as of September 2018 – 584 members of the House of Lords were men, and 207 members of the House of Lords were women.<sup>190</sup> However, as members of the House of Lords affected by this disqualification would have the option of taking a leave of absence from the House of Lords, or retiring or otherwise resigning as a member of the House of Lords, the impact of this disqualification in relation to age is considered to be negligible. The number of persons affected is also likely to be very low.

**846.** As such, following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a differential impact on people in this protected group.

#### 17.5.9. Sexual orientation

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**847.** Following the consultation exercise and extensive research, the provisions of the Bill are not considered to have a differential impact on people in this protected group.

#### 17.5.10. People with caring responsibilities and people from differing socio-economic backgrounds

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**848.** Although not covered under protected characteristics under the *Equality Act 2010*, consideration has been given to whether the Bill could have a differential impact on people with caring responsibilities or people from differing socio-economic backgrounds.

**849.** Not everyone is eligible to be an Assembly Member. A list of some of the criteria which disqualify someone from being an Assembly Member is included in sections 16 to 19 of the *GOWA 2006*. For example, MPs are not allowed to be Assembly Members at the same time, nor are judges, civil servants, Assembly officials, or public officials, such as the Public Service Ombudsman for Wales.

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<sup>190</sup> Information provided by the House of Lords External Communications’ Enquiry Service, 9 September 2018.

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Other criteria which disqualify someone from being an Assembly Member are set out in other pieces of legislation, for example Disqualification Orders.

**850.** A person is disqualified from being an Assembly Member if they hold one of these disqualifying offices at the point at which they are nominated to stand for election as an Assembly Member. At the point at which they are nominated, candidates must make formal declarations that they are not disqualified from being Assembly Members. If they are aware that they hold any of the disqualifying roles, they must not accept nomination as candidates to be Assembly Members until they have resigned from the disqualifying roles.

**851.** In 2014, the Fourth Assembly's Constitutional and Legislative Affairs Committee held an inquiry into how the disqualification arrangements worked. It published a report.<sup>191</sup> which made recommendations on how the legal arrangements should be changed so that they worked more effectively.

**852.** One of the Committee's proposed changes set out in its report would mean that disqualification from membership of the Assembly should take effect on taking the oath or affirmation of allegiance as an Assembly Member, subject to a few exceptions because of the nature of the jobs being undertaken. The Committee believed this would be a significant change that would enable more people to stand for election because they will not have to give up their employment to do so. This is particularly pertinent to people who experience socio-economic disadvantage and thus could be seen as lessening or removing a potential barrier to standing for office with a view to increasing the potential for diversity of representation. The Bill gives effect to this provision.

## 17.6. Human Rights

**853.** Acts of the National Assembly for Wales must be compatible with the European Convention on Human Rights.<sup>192</sup>

**854.** A number of provisions of the Bill engage, or might be considered to engage, Convention Rights.

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<sup>191</sup> National Assembly for Wales's Constitutional and Legislative Affairs Committee (Fourth Assembly), [Inquiry into the Disqualification from Membership of the National Assembly for Wales](#), July 2014

<sup>192</sup> Government of Wales Act 2006, subsection 108A(2)(e)

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### 17.6.1. The franchise

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**855.** Section 10 of the Bill extends the franchise for voting in elections to the National Assembly for Wales to 16- and 17-year olds. To be eligible to vote a 16- or 17-year old must meet the same criteria (save for age) as a person who is aged 18 or over.

**856.** On the basis of the current franchise for election to the National Assembly for Wales, the following groups would not be entitled to vote:

- sentenced prisoners who are barred from voting by section 3 of the *Representation of the People Act 1983*;
- people who are resident in Wales but are not British citizens, qualifying Commonwealth citizens or European Union citizens.

**857.** Consideration has been given as to whether the exclusion of these groups is consistent with Article 3 of Protocol 1 to the *European Convention on Human Rights* (the right to free and fair elections) in the event that it is considered to be engaged.

**858.** Successive judgments of the European Court of Human Rights have found the United Kingdom to be in breach of Article 3 of Protocol 1 because no prisoner sentenced to a term of imprisonment can vote whilst in prison. The leading case is *Hirst v UK (No.2)* in 2005.<sup>193</sup> Whilst states have a wide margin of appreciation in this area, it is the blanket nature of the ban that is objected to.

**859.** In November 2017, the UK Government announced its intention to give prisoners released on temporary licence or on home detention curfew the right to vote in all elections in the UK. It will also, in future, be made clearer on sentencing that imprisonment involves losing the right to vote.

**860.** The UK Government's approach has been endorsed as a proportionate response by the Council of Europe, which is responsible for overseeing the implementation of judgments from the European Court of Human Rights.

**861.** It is anticipated that the new administrative arrangements enabling more prisoners to vote will be in place before the first elections under the Bill take place.

**862.** Furthermore, the Assembly's Equality, Local Government and Communities Committee has agreed (at the Llywydd's request) to undertake an examination of

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<sup>193</sup> *Case of Hirst vs The United Kingdom (No. 2)*, ECHR 681 (6 October 2005)

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the issue of prisoner voting in the spring of 2019, which will inform future consideration of the Assembly and local government franchise.

**863.** It is not considered that Article 3 of Protocol 1 requires States Parties to the Convention to allow non-citizens of that State to vote in parliamentary elections. The European Court of Human Rights<sup>194</sup> allows a wide margin of appreciation to States in relation to Article 3 and is likely to allow a particularly wide one in relation to decisions on which, if any, resident foreign nationals they permit to vote in their legislative elections.

**864.** Similarly, it is not considered that there is any breach on the basis of Article 3 of Protocol 1 together with Article 14 (protection from discrimination), alleging unlawful discrimination on the basis of nationality. It is important to note that Article 16 of the Convention states that: “Nothing in Articles 10, 11 and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activity of aliens”. Whilst Article 16 does not refer to Article 3 of Protocol 1, it appears to indicate the general approach of the Convention to the subject.

**865.** Whilst the Bill preserves the current position whereby Commonwealth citizens and citizens of other EU countries are allowed to stand and vote in elections to the Assembly, this position reflects the reciprocal agreements<sup>195</sup> which are in place with the EU and Commonwealth countries – in other words, their citizens can vote in UK elections and UK citizens can vote in theirs.

#### **17.6.1.1. Data sharing**

**866.** Sharing electoral registers can engage Article 8 of the Convention (the right to respect for private and family life). However, the Bill places greater restrictions on the availability and use of data on those aged under 16.

**867.** Only Electoral Registration Officers and their staff will be able to have access to and use the data on those aged under 16. However, the data may be disclosed to the individual themselves or for the purposes of a criminal investigation or criminal proceedings relating to an electoral offence. Those aged under 16 will not appear on any published version of the register, other than in tightly defined circumstances. The exception to that general principle will be that, before a relevant electoral event, returning officers, the Electoral Commission and certain

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<sup>194</sup> *Case of Davydov and Others v. Russia*, no. 75947/11, ECHR 2017 (30 May 2017)

<sup>195</sup> See for example Article 20 (2)(b) of the [Treaty on the Functioning of the European Union](#).

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other groups will be entitled to a copy of the register that will contain details of all those entitled to vote at the electoral event.

**868.** Such data disclosure as is enabled by the Bill pursues legitimate aims under Article 8(2), principally to protect the rights of others by ensuring fairness at the election that uses the data. By allowing only certain persons access to that data, under safeguards, the provisions strike the right balance between the private life of the young individuals on the register and the public interest in running elections.

### 17.6.2. Disqualification

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**869.** Sections 29 to 34 of the Bill establish a new framework for disqualification. People with certain roles (which are incompatible with the membership of the Assembly) are disqualified from standing as candidates for election to the Assembly, while others are disqualified solely from taking the oath or affirmation of allegiance as an Assembly Members.

**870.** In the event that Article 3 Protocol 1 is engaged by the provisions, there is not considered to be any breach. Paragraphs 863 and 864 set out how it is considered the Court will approach issues around Article 3. The new disqualification framework is intended to maximise participation in elections to the Assembly by enabling candidates who had hitherto been required to resign their post before becoming a candidate, to resign only once they have been successfully elected.

**871.** Whilst the Bill imposes greater restrictions in respect of two categories of office: Lords-Lieutenant (and similar offices) and peers, this is intended to protect the system as whole from conflicts of interest, and the proposal is proportionate to that aim.

**872.** It is not considered that there is any breach on the basis of Article 3 of Protocol 1 together with Article 14 (protection from discrimination), alleging unlawful discrimination between the holders of offices which are a bar to standing as a candidate and those that are a bar to being a Member; or in respect of the two types of office-holders on which the Bill will impose new or greater restrictions. The Fourth Assembly's Constitutional and Legislative Affairs Committee set out a clear and reasonable justification for differentiation between the two categories of candidate and for imposing greater restrictions on Members of the House of Lords and Lords-Lieutenant etc., based on the legitimate aim of maximising participation in the electoral process and protecting the system as

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whole from conflicts of interest, and the proposals are proportionate to those aims.<sup>196</sup>

## **17.7. Summary of the Bill's impact on equality**

**873.** It is not considered that the Bill's provisions have any negative impacts on equality.

**874.** It is believed the provision to extend the entitlement to vote in Assembly elections to 16- and 17-year olds increases equality of opportunity in terms of contributing to decision-making, political and civic participation and therefore have a positive impact on equality.

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<sup>196</sup> National Assembly for Wales's Constitutional and Legislative Affairs Committee (Fourth Assembly), *Inquiry into the Disqualification from Membership of the National Assembly for Wales*, July 2014

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## 18. Official Languages Impact Assessment

### 18.1. Date of impact assessment

**875.** This impact assessment was initiated in April 2018 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 18.2. Purpose of impact assessment

**876.** This Official Languages Impact Assessment has been undertaken in accordance with the requirements of Schedule 2, paragraph 8 of the GOWA 2006.

**877.** The purpose of this Official Languages Impact Assessment is to consider the impact of the Bill's provisions on the two official languages of the National Assembly for Wales, English and Welsh, and to consider any changes needed to the Bill in order to mitigate negative impacts or ensure more positive impacts on those languages.

### 18.3. Who has been consulted with as part of developing this impact assessment?

**878.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment. Informal discussions were also held with a number of stakeholders, including the office of the Welsh Language Commissioner, to inform the development of this impact assessment.

### 18.4. The impacts on official languages

**879.** On the basis of the consultation exercises noted above and research undertaken by Commission officials, a number of provisions in the Bill are not considered to have a significant impact in relation to either of the Assembly's official languages. These provisions relate to:

- the entitlement to vote in Assembly elections;
- disqualification from being an Assembly Member;
- a duty on the Senedd to consider the financial and oversight arrangements of the Electoral Commission;
- date of the first meeting of the Assembly; and

- 
- clarify Assembly Commission powers to charge for goods and services.

**880.** These provisions, and the rationale for not considering them to have a significant impact on either of the Assembly's official languages, are discussed in turn below.

## 18.5. Entitlement to vote in Assembly elections

**881.** The Assembly Commission consulted from 12 February to 6 April 2018 on proposals for changes to the Assembly's electoral and internal arrangements. This included questions around who should vote in Assembly elections, including whether the franchise should be extended to 16- and 17-year olds, foreign nationals and certain categories of prisoners. The majority of respondents to questions on the minimum voting age for Assembly elections felt that the voting age should be reduced to 16.

**882.** The changes to the Assembly's electoral franchise proposed in this Bill are Wales-wide and would affect all geographical communities in the same way, regardless of their linguistic profile.

**883.** According to the School Census Results, as at July 2018, there were 30,010 pupils attending secondary schools where Welsh:

- was the sole or main medium of instruction; or
- was the medium of instruction for part of the curriculum.<sup>197</sup>

**884.** Electoral services for Assembly elections will continue to be provided in both Welsh and English as they are at present. Welsh local authorities provide electoral services to citizens and are subject to the Welsh Language Standards and therefore should provide any existing or new electoral services in Welsh. There may be an impact on local authorities in terms of increased translation costs to provide electoral services in Welsh to a larger electorate. As previously noted, it is anticipated that 69,029 new electors will be added to electoral registers by lowering the minimum voting age for Assembly elections from 18 to 16. It is reasonable to assume a proportion of these young people would prefer to use electoral services in Welsh.

**885.** Also subject to the Welsh Language Standards is the Electoral Commission, who would be a key partner in communicating the proposed changes to the franchise. The Electoral Commission is committed to operating bilingually, has a

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<sup>197</sup> Welsh Government, [Pupil Level Annual School Census, 25 July 2018](#)

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Welsh language officer, and a Welsh Language Advisory Board. In their report on the 2016 National Assembly election the Electoral Commission set out some of their bilingual awareness raising activities leading up to the Assembly elections. This included:

- advertising across social media, website channels, TV and radio;
- a booklet to every household in Wales containing information on registering to vote; how to complete ballot papers, how to vote etc; and
- the development of the aboutmyvote.co.uk website to include more local information.

**886.** It is anticipated similar bilingual campaigns will run in the lead up to the 2021 Assembly elections.

**887.** To support the extension of the electoral franchise to 16- and 17-year olds, an education campaign would be developed for use in schools. This would involve the provision of additional learning materials for schools and education authorities. Such resources would be produced bilingually in accordance with the statutory Welsh language duties on the relevant organisations that produce them, including the Welsh Government and Electoral Commission. It could therefore be argued that lowering the voting age could have a positive impact on both Welsh and English by adding to the quantity and quality of materials available in both languages. There would be no differential impact in relation to those languages.

## 18.6. Disqualification from being an Assembly Member

**888.** The Bill includes provisions to change the law on disqualification from membership of the Assembly. It is considered that these policy proposals would have no direct impact on the English and Welsh languages.

**889.** The Bill includes provisions to disqualify members of the House of Lords from membership of the Assembly. Every effort has been made to ascertain the proportion of members of the House of Lords who are Welsh-speaking in order to identify whether there is a risk of a potential disproportionate effect on the Welsh language as a result of this additional disqualification. However, the House of Lords does not hold such information on peers and it is not therefore possible to predict such an impact.

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## 18.7. The need for a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums

**890.** The Bill includes provisions which place a duty on the Senedd to consider the financial and oversight arrangements for the work of the EC in relation to devolved Welsh elections and devolved referendums. Those provisions require the Electoral Commission (EC) to respond to any recommendations made by the Senedd in the light of the exercise of this duty.

**891.** These provisions are not considered likely to impact significantly on the Assembly's official languages. Should the Assembly liaise with stakeholders during the course of its consideration of the financial and oversight arrangements for the work of the EC, the Assembly would communicate in both its official languages and those stakeholders would be able to provide evidence in either or both languages. Any reports published by the Assembly in light of its consideration of the financial and oversight arrangements for the work of the EC would be published bilingually in accordance with the requirements of its Official Languages Scheme.

**892.** However it could be argued that, should the consideration of the financial and oversight arrangements for the work of the EC lead to the EC becoming accountable to the Assembly for its work in relation to devolved Welsh elections, this may have positive implications for the Welsh language. This is because, in exercising this duty, the Assembly could consider the extent to which elections were conducted in a way which meets the needs of Welsh speakers.

## 18.8. Date of the first meeting of the Assembly

**893.** Provisions relating to this issue are not considered to impact in any way on the Assembly's official languages.

## 18.9. Clarify Assembly Commission powers to charge for goods and services

**894.** Provisions relating to this issue are not considered to impact in any way on the Assembly's official languages.

## 18.10. Name of the Assembly

**895.** Two issues are expected to have a differential impact in relation to the official languages:

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- The name of the Assembly;
  - Provisions to implement Law Commission recommendations.

**896.** The Bill includes provision to change the name of the Assembly. For background information on this issue, please refer to section 4.2 of this Explanatory Memorandum.

**897.** More than three fifths (60.9 per cent) of respondents to the Assembly Commission’s consultation on changing the name of the Assembly agreed that the National Assembly for Wales should change its name. A majority (80.1 per cent) of respondents agreed that “the name of an institution is important to explain what it does”.

**898.** In considering the appropriate name for the National Assembly for Wales, it may be noted that:

- 73.2 per cent of respondents agreed that a bilingual name consisting of “Welsh Parliament” and “Senedd Cymru” would positively describe the role and responsibilities of the National Assembly for Wales;
- 69 per cent agreed that a bilingual name consisting of “Parliament of Wales” and “Senedd Cymru” would positively describe the role and responsibilities of the National Assembly for Wales;
- 53 per cent of respondents felt the Welsh name “Senedd” would positively describe the role and responsibilities of the National Assembly for Wales;
- 38 per cent favoured a bilingual name consisting of “National Assembly for Wales” and “Cynulliad Cenedlaethol Cymru”.

**899.** The Assembly Commission’s original intention was to change the name of the National Assembly for Wales to “Welsh Parliament / Senedd Cymru”, reflecting the views of respondents.

**900.** However, as detailed in Chapter 4 of this Explanatory Memorandum (What the Bill does), when Members debated a proposal seeking the Assembly’s agreement to introduce a Commission-proposed Bill, a number of Assembly Members advocated that the Assembly should be renamed as the “Senedd”.

**901.** Engagement between the Llywydd (as the Chair of the Assembly Commission) and individual Assembly Members and party groups subsequently found that the monolingual name “Senedd” carried more support amongst

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Assembly Members than any of the other names considered, including Welsh Parliament / Senedd Cymru.

**902.** On this basis, it was decided that the name of the Assembly should be changed and that the Bill on introduction would propose the name Senedd. The provision in the Bill that stipulates the Assembly will be known as “Senedd” provides that the “Senedd” may also be known as the Welsh Parliament. Allowing for the use of “Welsh Parliament” alongside the name “Senedd” will assist those not familiar with the Welsh word to understand the meaning of the name and will further emphasise the constitutional status of the institution as a national parliament for Wales.

**903.** Since 1 March 2006, the Assembly has been located within a building known as the Senedd. The term “Senedd” is currently widely used in the media to refer to the institution of the National Assembly for Wales, not only the building. It is considered that using a name which already has resonance in Wales will help build public recognition and understanding of the work of our national parliament as distinct to that of Welsh Government.

**904.** Adopting a monolingual name is an opportunity to increase the profile, status and use of the Welsh language within Wales and beyond and normalise the term. Some consultation responses also suggested monolingual Welsh titles for the National Assembly’s senior officers: Llywydd (Presiding Officer), Dirprwy Lywydd (Deputy Presiding Officer) and Aelod Cynulliad (Assembly Member). In proposing monolingual Welsh names for the institution and senior officials, some respondents drew comparisons with the use of the monolingual Irish Gaelic word “Oireachtas” in both the English and Irish Gaelic names for the Irish Parliament (‘Houses of the Oireachtas’ and “Tithe an Oireachtas” respectively), where senior officers have monolingual Irish Gaelic titles. The two houses of the Oireachats have the monolingual Irish Gaelic names Dáil Éireann and Seanad Éireann. These are monolingual Gaelic names which are widely used and understood in Ireland and beyond.

**905.** The name “Senedd” also belongs to an international family of names such as Senate and Seanad used to describe national legislatures or parts of legislatures. In that respect the renaming of the Assembly as Senedd would provide the institution with a name which would be easily recognised in some parts of the world as a reference to a national, parliamentary legislature.

**906.** In accordance with the requirements of the *National Assembly for Wales (Official Languages Act) 2012*, the Assembly Commission operates an Official Languages Scheme. The current scheme was agreed by the Commission at the

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beginning of the Fifth Assembly in July 2017.<sup>198</sup> The scheme sets out how the Assembly Commission will provide services in both Welsh and English to reflect the equal status of both the Assembly's official languages. Section 13.2 of the scheme states:

“Our corporate identity is bilingual. However, some terms are known by a single name in both of the official languages, including the following:

- Llywydd;
- Senedd, Neuadd, Cwrt, Oriel, Siambr;
- Tŷ Hywel; Siambr Hywel; and
- Pierhead.”

**907.** The term “Senedd” will provide a single, new name for the Assembly to be used in both the official languages in the same way as the names listed above.

**908.** This approach will be reflected in branding material associated with the name change and on public information such as signage, illustrating that the term “Senedd” reflects the institution's role as the Welsh parliament.

**909.** It may be argued that the adoption of a Welsh term (i.e. Senedd) as a new name for the Assembly does not reflect the equal status of both the Assembly's official languages. However, the requirement to reflect the equal status of both languages does not require both languages to be treated in exactly the same way, as demonstrated by the list of Assembly-related names shown above. It is considered that the adoption of a Welsh term as a new name for the Assembly, for use in both of the Assembly's official languages, will help achieve greater parity of status for both languages over time, in terms of their use and profile. The Bill also provides that the Senedd may also be known as the Welsh Parliament, which provides further mitigation against this argument.

## 18.11. Implementation of Law Commission recommendations for rationalisation of electoral law

**910.** In 2016, the Law Commission recommended current laws relating to elections should be rationalised into a single, consistent legislative framework which provides consistency across elections, in accordance with the legislative

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<sup>198</sup> National Assembly for Wales Commission, *The Official Languages Scheme for the Fifth Assembly*, July 2017

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competence of each of the UK's legislatures. The *WA 2017* provides the Assembly with legislative competence over elections. Should the Welsh Government choose to use the enabling power provided by the Bill to rationalise the current laws relating to Welsh elections into a single, consistent legislative framework, it could be argued that would make the law more accessible in both Welsh and English equally.

**911.** Moreover, as all legislation made in the Assembly is available in both Welsh and English, a single legislative framework on elections developed in Wales would be available in both of the Assembly's official languages. Currently, legislation relating to Welsh elections made in the UK Parliament is only available in English. The implementation of this provision in the Bill could therefore have a positive effect on the availability of legislation in the Welsh language, thereby raising the status and profile of the language and helping to facilitate its use. There would be no impact on the use of the English language as all such legislation is, and will continue to be, available in English.

## 18.12. Summary of the Bill's impact on Official Languages

**912.** It is not considered that the Bill's provisions have any negative impacts on either or both of the Assembly's official languages.

**913.** It is believed the adoption of the name "Senedd" for the Assembly could have a positive impact on the Welsh language.

**914.** It is believed the provision to enable the Welsh Ministers to rationalise electoral law in accordance with recommendations made by the Law Commission could have a positive impact on the Welsh language.

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## 19. Children’s Rights Impact Assessment

### 19.1. Date of impact assessment

**915.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 19.2. Purpose of impact assessment

**916.** This Children’s Rights Impact Assessment is not a statutory requirement but has been prepared as good practice.

**917.** This Children’s Rights Impact Assessment (CRIA) considers the effect of the Senedd and Elections (Wales) Bill on children in Wales and their rights under the United Nations Convention on the Rights of the Child (UNCRC).

**918.** The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. It was ratified by the UK in December 1991 and came into force in the UK in January 1992.

**919.** The Welsh Government adopted the Convention as the basis for policy-making for children and young people in Wales in 2004. Children’s rights in Wales are further protected by the *Rights of Children and Young Persons (Wales) Measure 2011*, which requires Welsh Ministers to have due regard to the substantive rights and obligations within the UNCRC and its optional protocols.

**920.** CRIAs are a key mechanism for implementing the UNCRC. The Welsh Government has committed to undertaking them as a means of ensuring that due regard is given to children’s rights when introducing legislation or exercising Ministerial functions. While these obligations are on Welsh Ministers when bringing forward legislation, it is also important for non-government Bills to fully consider the UNCRC and this CRIA has been produced to inform the proposals in the Bill.

**921.** In preparing the Bill, consideration has been given to whether children and particular groups of children may be affected. This has informed the analysis of how the Bill impacts on the Articles of the Convention.

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### 19.3. Who has been consulted with as part of developing this impact assessment?

**922.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment.

**923.** Some of the consultations held had particular relevance to children and young people, and are referred to below.

**924.** As part of a Votes@16 consultation undertaken by the Presiding Officer of the Assembly from November 2014 to June 2015, 53 per cent said the voting age should be lowered from 18 to 16, 29 per cent said no, and 18 per cent did not know.<sup>199</sup>

**925.** In 2017, the Expert Panel on Electoral Reform was established by the Assembly Commission to provide politically impartial advice on the number of Assembly Members, the electoral system and the minimum voting age for Assembly elections. Following the panel's report, the Commission launched a consultation asking for views on its recommendations, and on other reforms to the Assembly's electoral and operational arrangements. No concerns were raised specifically in relation to children and young people, although some wider concerns were raised which could have a potential impact on children's rights. These are discussed in the section "Unintended consequences and risks".

**926.** The Commission consulted between April and June 2017 on its proposals to establish a Youth Parliament. Subsequently a decision was taken to establish a Youth Parliament for Wales and voting for the first Youth Parliament opened in November 2018.

**927.** The Assembly Commission consulted from 12 February to 6 April 2018 on its "Creating a Parliament for Wales" document, which set out a number of issues related to the functioning and franchise of the National Assembly. This included questions around who should be allowed to vote in Assembly elections, including whether the franchise should be extended to 16- and 17-year olds. Of those that responded to the questions on lowering the minimum voting age, 59 per cent said the voting age should be lowered to 16, 39 per cent said it should remain at 18 and two per cent responded that they didn't know. Respondents to the

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<sup>199</sup> [National Assembly for Wales, Should the voting age be lowered to 16? Summary of responses to the Presiding Officer's "Vote@16?" consultation for 11-25 year olds in Wales, July 2015](#)

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consultation did not identify that the proposals consulted upon would have any particular impacts on children and young people.

**928.** Informal discussions were held with officials from the office of the Children's Commissioner for Wales during the preparation of this impact assessment, to seek their views on how the Bill's policies would impact on children and young people.

## 19.4. The impacts on children's rights

### 19.4.1. The purpose of the Bill and its effect on children

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**929.** The Bill aims to rename the Assembly, to implement the Expert Panel's recommendation on the minimum voting age of Assembly elections by extending the franchise for voting in National Assembly elections to 16- and 17-year olds, and to deliver other reforms to the Assembly's electoral and operational arrangements that could make it a more accessible and effective legislature.

**930.** The intention is that these provisions will be included within the *Senedd and Elections (Wales) Bill* which will be introduced in February 2019 and is anticipated to receive Royal Assent in December of the same year. The provisions to extend the franchise will take effect from the date of the next ordinary National Assembly for Wales elections, which are currently scheduled to be held in May 2021. This means that 14- and 15-year-old attainers and 16- and 17-year olds will be added to the electoral register as part of the annual canvass which will start in July 2020.

**931.** The increase in the franchise will affect a large proportion of, but not all, 16- and 17-year olds residing in Wales who will now be able to vote in Assembly elections in Wales. At present, individuals are able to vote in Assembly elections if they are over 18 years of age and a UK, Commonwealth, Republic of Ireland or EU citizen. The only change is that the age would be lowered to 16 instead of 18 in respect of Assembly elections.

**932.** If we accept the definition of a child as being a person who has not yet reached the age of 18 (as per the *Social Services and Well-being (Wales) Act 2014* and Article 1 of the *UN Convention of the Rights of the Child*), the Assembly Commission's proposals will directly impact on a specific group of children: the large proportion of 16- and 17-year olds who will be included in the electoral register and will be able to vote.

**933.** The need for the Bill is covered in detail elsewhere within the Explanatory Memorandum and not all of the arguments put forward are replicated within this CRIA.

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## 19.4.2. Analysing the Bill's impact on children and their rights under the UNCRC

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**934.** The Bill is relevant to a number of articles within the UNCRC. The most relevant articles that have been identified are articles 12 and 13 and 17, which refer to respect for the views of the child, freedom of expression and access to information. It also raises some issues in relation to article 14, which refers to freedom of thought, belief and religion, and article 30, which relates to children from minority or indigenous groups.

**935.** In responding to the *Creating a Parliament for Wales* consultation, the Children's Commissioner for Wales restricted her comments regarding children's rights to the proposals relating to lowering the voting age. This could be taken as an indication that she considered that the other issues raised in the consultation would have a limited impact on children and young people's rights. The articles that the Commissioner stated were the most relevant to the proposals to lower the voting age were article 2, article 12, article 13 and articles 28 and 29. These are all considered in the analysis that follows.

**936. Articles 1, 3, 4 and 5** contain general principles of the Convention in relation to who is protected, an affirmation that all relevant organisations should work towards the best interests of children, and parental freedom.

Articles 1, 3, 4 and 5 are respected by the Bill.

**937. Article 2** addresses children's right to be free from discrimination. In lowering the voting age for Assembly elections to 16, the Bill enables 16- and 17-year olds to take part in elections, including looked after and disabled children and young people.

**938.** However, the reduction of the voting age will not apply to foreign nationals who cannot vote (i.e. those who are both non-EU and non-Commonwealth citizens), asylum applicants, or those who are in custody as young offenders.

### **19.4.2.1. 16- and 17- year old non-EU and non-Commonwealth citizens**

**939.** It would be wholly inappropriate for non-EU and non-Commonwealth 16- and 17-year olds to be enfranchised with the ability to vote in Assembly elections, and then have this right removed from them when they turned 18.

**940.** First, because this would be actively discriminating towards non-EU and non-Commonwealth citizens (of 18 years and over) on the basis of age. It would be

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difficult to justify to 18-year olds why they were being excluded from an activity that they had previously been able to participate in.

**941.** Second, because this approach would be impractical to administer. Instead of identifying those persons who became eligible to vote, local authorities would also have to identify those persons who became ineligible to vote. The potential for confusion amongst both the electorate and those required to administer elections would be high.

**942.** Third, because there is simply no basis for proposing such an approach, either based on public discourse, or responses to the Assembly's consultation.

**943.** Consequently, in developing this legislation the question cannot be whether 16- and 17-year olds non-EU and non-Commonwealth citizens should be enfranchised.

**944.** Rather, a legitimate question is whether at the same time as extending voting rights to 16- and 17-year olds, the Assembly franchise should also be extended to *all* non-EU and non-Commonwealth citizens, over the age of 16, who have the legal right to remain in the UK.

**945.** In its "Creating a Parliament for Wales" consultation, the Assembly Commission asked respondents whether they agreed that all legal residents in Wales should be allowed to vote in Assembly elections, irrespective of their nationality or citizenship. Of these 1,480 responses, 66 per cent (980) felt that all legal residents in Wales should be allowed to vote in Assembly elections, irrespective of their nationality or citizenship (42 per cent (620) strongly agreed and 24 per cent (360) agreed).

**946.** Respondents were also asked whether there were any other issues, risks or benefits that should be considered in relation to changing the rights of non-UK nationals legally resident in Wales to vote in Assembly elections. Reasons given for supporting this proposal included: that the vote should be extended to all those affected by the Assembly's decisions which, according to some responses, includes anyone resident in Wales; and that it would encourage integration by making immigrants feel part of Welsh life. Some responses suggested there should be qualifications on the right of non-UK citizens to vote, such as paying taxes.

**947.** 16 per cent (100) of responses to this question felt that only UK citizens should be allowed to vote in Assembly elections. Among the reasons given to support this view were that:

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- voting in other countries is restricted to citizens of those countries;
  - non-UK nationals should not be allowed to affect UK or Welsh laws; and
  - those resident in the UK who have not become citizens are not fully committed to the UK and should therefore not have a say in elections.

**948.** Some responses suggested that only UK citizens resident in Wales or who have their main residence in Wales should be allowed to vote in Assembly elections.

**949.** 13 per cent (80) of responses referred specifically to a minimum period of residence as a qualification for voting in Assembly elections. Some wanted to see a minimum period of residence within the UK whilst others proposed a minimum period of residence within Wales. The minimum periods of residence suggested ranged from one to 10 years “would increase the relative power of urban constituencies and would incentivise some political entrepreneurs and parties to temper anti-immigration rhetoric”.<sup>200</sup>

**950.** An argument may therefore reasonably be made that all persons legally entitled to live in Wales should be able to participate in elections to the National Assembly for Wales. Such persons may reasonably point to that fact that they pay taxes, and otherwise participate in civic society.

**951.** It may also be noted that such persons will be able to vote in elections to the Welsh Youth Parliament, and that the Welsh Government has indicated its intention to make legislative changes such that such persons can vote in local government elections. Different persons are currently enfranchised to vote in UK general elections compared to those enfranchised to vote in local government and Assembly elections. Nevertheless, it would be administratively more convenient for the same people to be able to vote in local government and Assembly elections. Divergences between the local government and Assembly franchises create the potential for confusion, both amongst the electorate and those responsible for administering elections, which in turn could impact on voter engagement.

**952.** It may also be noted that 1,570 responses were received to a question about whether respondents agreed with a statement that the same people should be able to vote in Assembly and local government elections. Of these 1,570 responses,

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<sup>200</sup> *If Immigrants Could Vote in the UK: A Thought Experiment with Data from the 2015 General Election*. Political Quarterly, Fox, S., Johnston, R., & Manley, D. J. (2016), University of Bristol.

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62 per cent (980) strongly agreed and a further 24 per cent (370) agreed with the statement.

**953.** However, a counter-argument may be made that voting is a manifestation of the relationship that exists between citizen and nation-state. It may be argued that this relationship runs deeper than that between resident and state.

**954.** It is a relationship which reflects that increased rights also entails increased responsibilities. For example, there is a requirement on male citizens between the ages of 19 and 45 in Greece to undertake military service, but such a requirement does not exist for residents. Likewise, UK citizens (and EU and Commonwealth citizens) have a responsibility to report for jury service when called, and to attend for as long as it takes to find a verdict. This responsibility does not apply to non-UK citizens (who are also not EU or Commonwealth citizens).

**955.** It may be argued that in an era of increased international mobility, the integrity of this relationship between nation-state and citizen has increased significance. It may be argued that a person who anticipates that their relationship with a country is time-limited may potentially vote in a different manner to how they would if they anticipate that relationship is permanent.

**956.** It may be argued that voting is a right that is gained by becoming a British citizen, by demonstrating a bond and affinity with the country that goes beyond residence and employment. Citizens of the European Union and the Commonwealth also have an existing right to vote, reflecting the deep historic bonds and ties between these nations. This reflects that decisions taken in voting for the National Assembly for Wales will have ongoing implications for such citizens, throughout the European Union and the Commonwealth. But voting remains a manifestation of the relationship between citizen and state, an election of parliamentarians that will in determine the laws that govern the land.

**957.** It was noted earlier that an identical franchise between local government and Assembly elections has advantages in terms of administration and public understanding. However, it may also be noted that there are fundamental differences between the remit of these elected bodies. Local government makes decisions about local services, which directly affect local residents. The National Assembly for Wales makes decisions about issues of principle and the direction, values, and laws of Wales as a whole. There is therefore a legitimate argument in favour of enabling residents to vote in local elections, but reserving votes to the National Assembly for Wales to those who have made a deeper commitment of being a citizen of the UK, the European Union or the Commonwealth.

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**958.** There are finely balanced arguments around this issue, and the Assembly may wish to give further consideration to this matter during its legislative scrutiny of the *Senedd and Elections (Wales) Bill*.

**959.** However, for the purpose of introducing the Bill, the Assembly Commission has determined that there is not currently a clear political consensus on this issue due to the complexity of the finely balanced arguments around it. In the absence of such a consensus, it is not appropriate for a cross-party body to make changes to the law on this matter. For this reason, the Bill maintains a legal status quo on this matter: i.e. that non-EU and non-Commonwealth residents would not be able to vote in Assembly elections.

**960.** By default, this approach must also be extended to 16- and 17-year old non-EU and non-Commonwealth residents, because – as noted above – it would be wholly inappropriate for 16- and 17-year olds to be enfranchised with the vote, and then have this right removed at 18.

**961.** There remains a risk that such young persons may feel excluded or discriminated against, as their friends and classmates will be provided with a right that they are not. However, it is anticipated that this risk will be mitigated by public information campaigns promoting awareness of the change in voting age providing clear explanations around who can and cannot vote in Assembly elections. Such information will also detail on how a person can become eligible to vote in the future, for example by becoming a British citizen. Public information campaigns will also identify that such persons will:

- be able to vote for bodies that do not have primary law-making powers, in elections to the Youth Parliament and local government;
- still be represented by Members of the National Assembly for Wales (in the same way that children of 15 years and under would be); and
- still be able to directly participate in the work of the National Assembly for Wales through public petitions and engagement with committee inquiries, etc.

**962.** For this reason, the Bill does not extend the right to vote in Assembly elections to non-EU and non-Commonwealth 16- and 17-year olds. This decision has been taken in light of the finely balanced political arguments outlined above, and is such is not considered to infringe upon children’s right to be free from discrimination.

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**963.** It may also be noted that the Bill would not enfranchise any 16- and 17-year olds who do not have the legal right to be in the UK at the time of seeking to register. This may include asylum applicants (refugees). Again, it is anticipated that public information campaigns will include clear explanations around who can and cannot vote in Assembly elections, to mitigate any confusion this may cause.

#### 19.4.3. Young offenders

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**964.** Although this Bill enfranchises 16- and 17-year olds to vote, existing provisions (section 3 of the *Representation of the People Act 1983*) currently disenfranchise most prisoners.

**965.** Consequently, the provisions in the *Representation of the People Act 1983* would mean that youth offenders (i.e. those detained in the youth equivalent of penal institutions) under the age of 18 would not benefit from extending the franchise to 16- and 17-year olds.

**966.** At present, most prisoners in the UK are prohibited from voting in all elections, although prisoners on remand may vote. However, successive judgments of the European Court of Human Rights have found the UK to be in breach of article 3 of protocol 1 of the *European Convention on Human Rights*. The judgments, all of which predate the coming into force of the *WA 2017*, make clear that compliance with the convention does not require all prisoners to be able to vote, rather that considered decisions should be taken about the voting rights of prisoners in elections to legislatures.

**967.** In response to these rulings, in November 2017, the UK Government announced its intention to give prisoners released on temporary licence or on home detention curfew the right to vote in elections in the UK. It will also, in future, be made clearer on sentencing that imprisonment involves losing the right to vote. These changes will be achieved through the introduction and clarification of administrative arrangements and guidance, rather than through legislation. The UK Government has estimated that these changes will affect up to 100 offenders across the UK at any time, but it is not known how many people it would affect in Wales.

**968.** The UK Government's approach has been endorsed as a proportionate response by the Council of Europe, which is responsible for overseeing the implementation of judgments of the European Court of Human Rights. The endorsement does not bind the court, which will not express a legal view on the

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adequacy of the arrangements unless and until a further case on prisoner voting in the UK is referred to it.

**969.** In 2017, before the UK Government announced its intentions, the Welsh Government consulted on the local government franchise in Wales, including the issue of prisoner voting. Responses to the consultation were finely balanced on the principle of prisoner voting.

**970.** In its February 2018 consultation, *Creating a Parliament for Wales*, the Assembly Commission asked respondents whether they agreed that prisoners released on temporary licence or on home detention curfew should be allowed to vote in Assembly elections, in line with the UK Government's intention for UK elections. Of 1,450 responses to this question, 54 per cent (780)<sup>201</sup> agreed and 34 per cent (490)<sup>202</sup> did not agree.

**971.** In January 2018, as part of its preparation for the Local Government and Elections (Wales) Bill, due for introduction during the course of this legislative year, the Welsh Government announced that it was exploring proposals to allow prisoners who were due for release within the term of the council to be elected to be able to vote in local government elections in Wales.

**972.** In its February 2018 consultation, *Creating a Parliament for Wales*, the Assembly Commission asked respondents whether they agreed that prisoners whose due release date falls before the end of the term of the Assembly for which they are voting should be allowed to vote in Assembly elections, in line with the Welsh Government's intention for local government elections in Wales. Of 1,440 responses to this question, 49 per cent (700) agreed,<sup>203</sup> while 36 per cent (530) did not agree.<sup>204</sup>

**973.** The consultation also asked respondents to identify any other issues, risks or benefits they recognised in relation to changing the rights of prisoners to vote in Assembly elections. Despite marginal support for allowing some prisoners to vote expressed in the previous questions, the most common single issue raised in response to this question was that prisoners should not be allowed to vote. 28 per cent (140) of responses mentioned this. Reasons given to support this view included that:

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<sup>201</sup> 26 per cent (370) strongly agreed and 28 per cent (410) agreed.

<sup>202</sup> 22 per cent (310) strongly disagreed and 12 per cent (180) disagreed.

<sup>203</sup> 23 per cent (330) strongly agreed and 26 per cent (370) agreed.

<sup>204</sup> 16 per cent (230) disagreed and 21 per cent (300) strongly disagreed.

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- a loss of rights is part of prisoners' punishment, which should include the right to vote; and
  - prisoners should not have a say in who governs the country and makes laws.

**974.** 10 per cent (50) of responses to this question noted that prisoners should be allowed to vote only once they have left prison:

“Those who have committed crimes sufficiently serious to warrant imprisonment should not have the right to vote until they have fully paid their debt to society. (Member of the public).”<sup>205</sup>

**975.** 18 per cent (90) of responses said all prisoners should be allowed to vote. Reasons given to support this view included that:

- other countries allow prisoners to vote;
- prisoners in Wales are affected by decisions made by the Assembly; and
- prisoners will feel more part of society if they are allowed to vote.

**976.** One respondent commented:

“I agree with both of these propositions as a start, but believe they should go further – prisoners should not be disenfranchised because of their previous actions – they are still residents of the country, and should not have their fundamental human rights taken away because they are currently in prison. (Member of the public).”<sup>206</sup>

**977.** 12 per cent (60) of responses referred to the rehabilitation of prisoners, with many arguing that an entitlement to vote would help their reintegration into society. Some suggested that citizenship or political education should be provided to prisoners.

**978.** Other issues raised in response to this question included:

- the constituency in which prisoners should be registered to vote (i.e. the constituency in which they are imprisoned or within which they normally reside). Respondents who raised this issue showed a clear

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<sup>205</sup> National Assembly for Wales Commission, [Creating a Parliament for Wales: Consultation Report](#), October 2018, p. 57.

<sup>206</sup> National Assembly for Wales Commission, [Creating a Parliament for Wales: Consultation Report](#), October 2018, p. 57.

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preference for prisoners voting in the constituency within which they normally reside;

- the administrative arrangements which would be required to allow prisoners to vote; and
- the need to take account of the judgments of the European Court of Human Rights.

**979.** 12 organisations responded to this question. The Electoral Reform Society Cymru highlighted that allowing prisoners in Wales to vote could have the effect of enfranchising male prisoners but not female prisoners as there are no women’s prisons in Wales. Organisations also suggested that:

- allowing prisoners to vote would carry with it potentially significant additional administrative burden and costs; and
- there should be consistency across the franchises for different elections.

**980.** The Electoral Commission’s Wales Electoral Coordination Board emphasised the need for careful planning and additional resources if prisoners were to be allowed to vote in Assembly elections:

“Any system for the participation of detained offenders will need to be practicable and be planned closely in partnership with Government bodies responsible for the prisons and associated services and estate. Such a system could be resource intensive for elections administrators and additional resources would be required for set-up and administration.”<sup>207</sup>

**981.** In summary, it is clear that the legal, ethical, democratic, practical and human rights issues relating to prisoner voting – including youth offender voting – are significant, requiring thorough consideration and judgement.

**982.** During the consultation period, the Creating a Parliament for Wales consultation was brought to the attention of a range of justice, prison, and victim support stakeholders. However, only 12 organisations responded to the questions on prisoner voting, none of which represent prisoners, prisons or victims of crime. This points to the need for thorough, focused stakeholder engagement work and

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<sup>207</sup> National Assembly for Wales Commission, Creating a Parliament for Wales: Consultation Report, October 2018, p. 58

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evidence gathering before any conclusions are reached on whether, and, if so, how and when, prisoners should be enfranchised in Wales.

**983.** For these reasons, the *Senedd and Elections (Wales) Bill* does not seek to address the issue of prisoner voting, including voting by youth offenders.

**984.** Instead, on 6 September 2018 the Llywydd wrote to the Equality, Local Government and Communities Committee to indicate that she would strongly welcome the Committee undertaking an inquiry to examine the principle of whether prisoners – including youth offenders in custody – should be allowed to vote in Assembly elections.<sup>208</sup>

**985.** The Equality, Local Government and Communities Committee subsequently launched an inquiry into this issue.<sup>209</sup> The Committee outlined in its terms of reference for the inquiry that it intended to consider:

- Arguments for and against giving some or all prisoners the right to vote in Welsh elections, and whether distinctions might be drawn between different categories of prisoner on the basis of sentence length, expected date of release, or types of offence.
- Practical issues, such as electoral registration (including address), voting method, prisoner engagement with the political process, the provision of political and citizenship information and education.
- Cross-border issues arising from prisoners from Wales being imprisoned in England and vice versa.
- Whether special considerations apply to young offenders in custody if the franchise is extended to 16- and 17-year olds generally, and
- Other countries' approaches to prisoner voting.

**986.** It is anticipated that the Committee's analysis of this issue will provide a substantive evidence basis with which to address the legal, ethical, democratic, practical and human rights issues relating to prisoner voting – including youth offender voting – and thereby determine the potential for addressing this matter in the future.

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<sup>208</sup> Llywydd, [Letter to the Chair of the Equality, Local Government and Communities Committee](#), 6 September 2018

<sup>209</sup> Equality, Local Government and Communities Committee, [Inquiry into voting rights for prisoners](#)

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**987.** For this reason, the Bill does not extend the right to vote in Assembly elections to those 16- and 17-year olds who will be prohibited from voting by the *Representation of the People Act 1983*.

**988.** This decision has been taken in light of the need for further examination of the associated legal, ethical, democratic, practical and human rights issues outlined above, and as such is not considered to infringe upon children’s right to be free from discrimination.

**989.** However, it is anticipated that any youth offenders in prisons will still have the opportunity to learn about voting through the education they receive in prison. Although such young persons would not currently have the opportunity to vote while in prison, they will be able to vote after they leave prison, and as such should not be denied access to opportunities to learn about their voting rights.

#### 19.4.4. Non-enfranchisement of 0–15 year olds

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**990.** It may be noted that although the Bill enfranchises most 16- and 17-year olds to vote in Assembly elections, it will not enfranchise children aged 15 years and under.

**991.** The Expert Panel noted that there is no single age threshold for rights and responsibilities. From birth a person can apply for a UK passport (albeit a person with parental responsibility generally has to sign an application from those under the age of 16), and can be liable to pay certain taxes. From the age of 5 a person can drink alcohol at home or on other private premises. From the age of 10 they can be held to be criminally responsible (from the age of 8 in Scotland).

**992.** Indeed, while personally advocating that the minimum voting age for Assembly elections should be set at 18, in written evidence to the Expert Panel, Craig Johnson commented that:

“a fair response to somebody calling for votes at 16 would be to ask, ‘what do you have against 15 year olds?’”<sup>210</sup>

**993.** However, this issue was not raised as a concern in responses to the Assembly Commission’s consultation, *Creating a Parliament for Wales*, and to date there has been no clear evidence basis assembled for lowering the vote age beyond 16.

**994.** Research has indicated that no country in the world currently has a voting age lower than 16. It may also be noted that children and young people aged 11 to

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<sup>210</sup> Expert Panel written evidence 28, Craig Johnson, submitted in a personal capacity

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18 will be able to vote for candidates to the Welsh Youth Parliament. Similarly there are opportunities for children and young people to vote in school and youth councils. In effect the opportunities for participation in democratic processes build up as a young person gets older, in conjunction with their political awareness and education.

**995.** It may also be noted that children and young people aged 0 to 15 will:

- still be represented by members of the National Assembly for Wales; and
- continue to be able to directly participate in the work of the National Assembly for Wales through public petitions and engagement with committee inquiries, etc.

#### 19.4.5. Ability to stand in Assembly elections

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**996.** Changes to the law on disqualification from being an Assembly Member will not directly affect children and young people. Instead, prospective Assembly Members will, as now, need to be 18 on the day they are nominated in order to stand for election.

**997.** An argument could theoretically therefore be advanced that this discriminates against children and young people on the basis of age, and that the age of candidacy should be lowered. Indeed, in Scotland, Liberal Democrat MSP Alex Cole-Hamilton tabled a motion, which received cross-party support, calling for the minimum age for candidates standing in Scottish parliamentary elections to be lowered to 16.<sup>211</sup>

**998.** However, this issue was not raised as a concern in the Assembly Commission's consultation, and research has indicated that no country in the world currently has a candidacy age lower than 18. Consideration would also need to be given to how such a proposal would interact with child protection laws (for example, limits on working hours).

**999.** It may also be noted that all 11- to 17-year-olds who are living<sup>212</sup>, or receiving education, in Wales are eligible to stand as a candidate in constituency elections to the Welsh Youth Parliament. There are also opportunities to stand as a candidate in school and youth councils.

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<sup>211</sup> [Scottish Parliament, Motion S5M-11890: Alex Cole-Hamilton, Edinburgh Western, Scottish Liberal Democrats, Date Lodged: 26/04/2018](#)

<sup>212</sup> Defined as permanently or ordinarily resident in Wales.

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**1000.** Consequently, the decision not to reduce the candidacy age of elections to the Assembly is not considered to infringe upon children’s’ rights to be free from discrimination.

In summary, it is considered that Article 2 is respected by the Bill.

**1001.** Article 12 states that every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. The Bill provides for reducing the minimum voting age in Assembly elections to 16, following the Expert Panel’s conclusion that reducing the minimum voting age to 16 would be a powerful way to raise political awareness and participation among young people.

**1002.** In 2015, the Assembly published a report, following consultation with over 10,000 children and young people, which found that 53 per cent favoured lowering the voting age to 16.<sup>213</sup> This Bill would answer a call made by young people themselves to allow them to express their views through the democratic process.

**1003.** Lowering the voting age to 16 will give young people in this age group a greater opportunity to express their views and to have those views considered and taken seriously. It would empower children and young people, allowing them to exercise their right to vote and improving democratic accountability by helping to ensure that their interests are taken into account.

**1004.** Article 12 also states that says that children who are capable of forming their own views should have the right to express their views on all matters affecting them, and that their views should be “given due weight in accordance with the age and maturity of the child”.

**1005.** The Bill allows for proportionate application of the UNCRC in expanding the franchise to 16- and 17-year olds, which the expert panel considered, having considered, among other things, their maturity, participation levels and various other rights, to be the age at which the panel recommended that young people should be allowed to vote.

**1006.** Also, children and young people were included in the consultation on changing the name of the National Assembly for Wales, which was undertaken from 8 December 2016 to 3 March 2017. It was promoted through the Assembly’s

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<sup>213</sup> National Assembly for Wales, [Should the voting age be lowered to 16? Summary of responses to the Presiding Officer’s “Vote@16?” consultation for 11-25 year olds in Wales, July 2015](#)

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social media accounts; various networks and education, youth engagement, community outreach sessions, and with visitors to the Assembly estate.<sup>214</sup>

Article 12 is given effect under the Bill.

**1007.** Article 13 states that every child must be free to express their thoughts and opinions and to access all kinds of information.

**1008.** Lowering the voting age provides young people within that age group with the opportunity to express their thoughts and opinions by participating in the electoral process.

Article 13 is given effect under the Bill.

**1009.** Article 14 provides that State Parties shall respect the right of the child to freedom of thought, conscience and religion.

**1010.** Lowering the voting age to 16 has the potential to give young people between 16 and 18 an opportunity to give voice to their beliefs by participating in the democratic process in deciding who will represent them at elections to the National Assembly for Wales.

Articles 14 is respected by the Bill.

**1011.** Article 16 provides that children and young people have the right to privacy.

**1012.** A reduction in the minimum voting age necessarily means that new sets of data will be held about children and young people (both 16- and 17-year old voters, and 14- and 15-year old attainers).

**1013.** The risk of a data breach is mitigated by provision about the handling of such data and the creation of an offence for a breach of duty in connection with the incorrect disclosure of data of a young person. The Bill states that:

“A registration officer must not publish, supply or otherwise disclose a young person’s information, except in accordance with—

(a) section 24, or

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<sup>214</sup> National Assembly for Wales, [Changing the name of the National Assembly for Wales](#)

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(b) regulations under section 25.”<sup>215</sup>

**1014.** A new power will also be created in relation to additional safeguards for information relating to 14- and 15-year old attainers.

**1015.** It may also be noted that political parties will have access to the full register for electoral purposes, and will therefore be able to send information to potential voters. This could theoretically be considered an infringement on young people’s right to privacy. However, this is considered to be significantly outweighed by the right of young people to information and participation. If young people are to vote at 16, they need the necessary information, including information from political parties about the candidates they can vote for.

#### Article 16 is respected under the Bill

**1016.** Article 17 provides that every child has the right to reliable information from a variety of sources and that government should encourage the media to provide information that children can understand.

**1017.** A consultation on changing the name of the National Assembly for Wales was undertaken from 8 December 2016 to 3 March 2017 and, of the individual respondents, 10 per cent were under 16 and 11.2 per cent were between 16 and 18. Over three fifths (60.9 per cent) of respondents agreed that the National Assembly for Wales should change its name. Following this consultation, in June 2017, the Assembly Commission announced that it wished to legislate to change the name of the institution.

**1018.** Evidence indicates that the people of Wales do not have a thorough understanding of the role and the powers of the National Assembly for Wales and that its name is considered to contribute to this uncertainty. Changing the name of the Assembly is anticipated to raise awareness of the role and functions of the legislature and the government among the people of Wales and to encourage engagement in the democratic process.<sup>216</sup>

**1019.** Clarity in relation to the naming of the legislature should have a positive impact on the media’s understanding of the distinction between its role and that of the Welsh Government and accuracy of reporting on its work.

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<sup>215</sup> Senedd and Elections (Wales) Bill, Section 23.

<sup>216</sup> National Assembly for Wales, [Changing the name of the National Assembly](#)

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**1020.** This should, in turn, help to improve children and young people’s understanding of the role of the Assembly.

**1021.** It may also be noted that the full register will be available to political parties for election purposes. This means that parties will be able to provide information to potential voters about candidates seeking their vote.

Article 17 is given effect under the Bill

**1022.** Article 20 provides that the government must give special protection and assistance to children who are unable to live with their family.

**1023.** The Bill includes provisions to address issues arising for looked-after children, who are essentially children who are in the care of the local authority (and who may also be accommodated by them). This cohort of young people may have less stability in their residence and some may move around between locations in Wales and England frequently. For this reason, specific provisions are made to enable these young people<sup>217</sup> to register in accordance with the location in Wales where they may have a local connection. This will be a former residence or a local authority address.

**1024.** In addition, looked-after children from England who are placed in Wales and who have a significant link to a Welsh locality would be enfranchised. Equivalent provisions are made for 14- and 15-year olds who are looked after to be registered as attainers, with particular care about confidentiality.

Article 20 is respected under the Bill

**1025.** Article 22 states that children who come into a country as a refugee should have the same rights as children born in that country.

**1026.** At present, refugees may not vote in UK Parliamentary, local government or National Assembly elections and this will remain the case in respect of UK Parliamentary and National Assembly elections.

**1027.** It may be noted that the Bill would not enfranchise any 16- and 17-year olds who do not have the legal right to be in the UK at the time of seeking to register. This may include asylum applicants (refugees).

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<sup>217</sup> An exception to this is any looked after children who are unable to vote for another reason- for instance because they are a non-EU and non-commonwealth citizens, or are in prison.

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**1028.** Likewise the Bill does not extend the right to vote in Assembly elections to non-EU and non-Commonwealth 16- and 17-year olds. This group is likely to include people who have been granted asylum (refugees). As previously noted, this decision has been taken in light of finely balanced political arguments.

**1029.** It is anticipated that public information campaigns will include clear explanations around who can and cannot vote in Assembly elections, to mitigate any confusion this may cause.

**1030.** It may also be noted that non-EU and non-Commonwealth 16- and 17-year olds (including refugees) will be able to vote in elections to the Welsh Youth Parliament, and it is anticipated that they will be able to vote in local government elections from 2022 onwards (subject to the legislative passage of the *Local Government and Elections (Wales) Bill*).

**1031.** It is also noted that the European Court of Human Rights allows a wide margin of appreciation to States in relation to Article 3 (of the *European Convention on Human Rights*), and is likely to allow a particularly wide one in relation to decisions on which, if any, resident foreign nationals they permit to vote in their legislative elections.

**1032.** Whilst the Bill preserves the current position whereby Commonwealth citizens and citizens of other EU countries are allowed to stand and vote in elections to the Assembly, this position reflects the reciprocal agreements which are in place with the EU and Commonwealth countries – in other words, their citizens can vote in UK elections and UK citizens can vote in theirs.

In summary, it is considered that Article 22 is respected under the Bill

**1033.** Article 23 provides that a child with a disability has the right to live a full and decent life with dignity and, as far as possible, independence, and to play an active part in the community.

**1034.** It is anticipated that education materials prepared to promote awareness of the rights of 16- to 17-year olds to vote in Assembly elections will be developed with consideration of the needs of children and young people with disabilities.

**1035.** It may also be noted that the existing rights of disabled voters will also apply to 16- and 17-year old disabled voters. For instance, they will be able to request assistance to mark the ballot paper, utilise a tactile voting device (to assist visually impaired people or those with limited dexterity to mark their ballot paper in secret), have reference to a large-print version of the ballot paper, and know that

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when polling places are designated, regard must be given to accessibility for disabled voters.

Article 23 is respected under the Bill

**1036.** Article 28 states that every child has the right to an education, while article 29 sets out the goals of such education.

**1037.** The Expert Panel stated that alongside the reduction in the minimum voting age, children and young people should be provided with appropriate political and citizenship education, which would be part of a wider range of actions by the Assembly, the Welsh Government and others to increase political participation and youth engagement.

**1038.** Similarly, in responding to the Assembly Commission's consultation the Children's Commissioner for Wales recommended that:

“independent civic and democratic education should be provided as part of the curriculum reform process and enable children and young people to creatively and critically engage in political issues that matter to them.”<sup>218</sup>

**1039.** Although not a requirement of the Bill itself, it is anticipated that an education and awareness raising campaign will be developed to ensure that 16 and 17 year olds are aware of the opportunity to vote in Assembly elections. This may include advertising, written material and face to face promotion in schools and other institutions. It is anticipated that such work would be reviewed on an ongoing basis.

Articles 28-29 are given effect under the Bill.

## 19.5. Impact on particular groups of children

**1040.** In preparing the Bill, consideration has been given to whether particular groups of children may be affected. Some of these have been addressed above in reference to specific articles, for example looked after children, non-EU and non-Commonwealth foreign nationals and youth offenders who are in prison.

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<sup>218</sup> Children's Commissioner for Wales, Creating a Parliament for Wales consultation response, 6 April 2018.

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**1041.** As noted earlier, 16- and 17-year old young offenders who are detained in the youth equivalent of penal institutions, would not be able to vote while in such institutions to 16- and 17-year olds. This decision has been taken in light of the need for further examination of the associated legal, ethical, democratic, practical and human rights issues outlined above. However, it is anticipated that any youth offenders in penal institutions will still have the opportunity to learn about voting through the education they receive in prison. Although such young persons would not currently have the opportunity to vote while in prison, they will be able to vote after they leave prison, and as such should not be denied access to opportunities to learn about their voting rights.

**1042.** As noted earlier, young people who are non-EU and non-Commonwealth nationals will continue not to be entitled to vote. This group is likely to include a significant proportion of young people from BME communities and refugees. However, as noted above:

- it would be wholly inappropriate to enfranchise 16- and 17-year olds non-EU and non-commonwealth nationals and then disenfranchise them at 18; and
- there are finely balanced arguments around the issue of enfranchising non-EU and non-commonwealth nationals as a whole.

**1043.** As also noted earlier, the Bill includes provisions to address issues arising for looked after children. This group of young people may have less stability in their residence and some may move around between locations in Wales and England frequently. For this reason, specific provisions are made to enable these young people<sup>219</sup> to register in accordance with the location in Wales where they may have a local connection. This will be a former residence or a local authority address.

**1044.** In addition, looked after children from England who are placed in Wales and who can demonstrate a significant link to that Welsh locality would be enfranchised. Equivalent provisions are made for 14- and 15-year olds who are looked after to be registered as attainers, with particular care about confidentiality.

## 19.6. Unintended consequences and risks

**1045.** Any proposed legislation must be mindful of any unintended consequences and risks that outcomes may not be completely as planned.

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<sup>219</sup> An exception to this is any looked after children who are unable to vote for another reason – for instance because they are a non-EU and non-Commonwealth citizens, or are in prison.

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**1046.** As previously noted, a possible unintended consequence of changing the Assembly franchise could be to cause confusion amongst both administrators and the voting electorate. For example, although most 16- and 17-year olds will have the right to vote in Assembly and local government elections, they will not have the right to vote in UK Parliamentary elections.

**1047.** However, this risk is believed to be mitigated by the intention that information about the changes to the voting age will be provided in sufficient time to ensure that 16- and 17-year olds are informed of which elections they have the right to vote in.

**1048.** Another possible unintended consequence is that enfranchising 16- and 17-year olds to vote in Assembly elections could – in the longer term – lead to societal changes in the interpretation of “adulthood”. This in turn could impact on child protection policies and laws. Currently, a number of laws specifically aim to protect children and young people up to the age of 18, on the grounds of their vulnerability. For example, in Wales, 18 is the age at which a person can legally get a tattoo, use a tanning booth, buy tobacco, or have an intimate piercing.

**1049.** However, there is no direct connection between these laws and voting age. It may also be noted that the public have historically been accustomed to different ages being associated with different rights and responsibilities (for example, the age at which a person can legally drive is 17). Moreover the age of candidacy to stand at the Assembly will remain at 18. As such, the risk of changes to societal perceptions of adulthood, as a result of this legislation, is considered to be low. It is considered that this risk is outweighed by the range of arguments previously identified in favour of lowering the voting age.

## 19.7. Summary of the Bill’s impact on children’s rights

**1050.** In summary, the Bill is considered to be furthering the United Nations Convention on the Rights of the Child. Due regard of children’s rights has been taken during the development of the Bill.

**1051.** Two consultations were ran during the development of this Bill, both of which had Easy Read versions, to enable a wider range of people with a potential interest in the Bill (including children and young people) to engage with them.

**1052.** The impact on particular groups has been considered and, where necessary, proposals have been adapted to ensure that the Bill has as positive an impact as possible without causing detriment to any particular groups. Potential risks and

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unintended consequences have also been considered, which have influenced the content of the Bill.

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## 20. Health Impact Assessment

### 20.1. Date of impact assessment

**1053.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 20.2. Purpose of impact assessment

**1054.** This Health Impact Assessment is not a statutory requirement but has been prepared as good practice.

**1055.** The purpose of this Health Impact Assessment is to consider the direct and indirect impact of the Bill's provisions on health, mental health and well-being, and to consider any changes needed to the Bill in order to mitigate negative impacts or ensure more positive impacts on those areas.

### 20.3. Who has been consulted with as part of developing this impact assessment?

**1056.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment.

**1057.** Informal discussions were held with Public Health Wales officials during the preparation of this impact assessment, to seek their views on how the Bill's policies might impact on health, mental health and well-being.

### 20.4. The Bill's overall impacts on health

**1058.** The majority of the Bill's provisions are not considered to impact (either beneficially or negatively) on health.

**1059.** However, the enfranchisement on 16- and 17-year olds to vote in Assembly elections are considered to have a number of potential positive impacts on health, as set out below.

### 20.5. Direct impacts on health, mental health and well-being

**1060.** Consideration has been given to whether the Bill could cause ill-health, or could otherwise affect social inclusion, independence and participation.

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**1061.** Extending the Assembly franchise to 16- and 17-year olds would have a positive impact in terms of enabling their participation in society's democratic processes.

**1062.** However, beyond this it is not believed that the Bill would have any direct impacts in terms of ill-health, social inclusion or independence.

**1063.** Likewise, the provisions of the Bill are not expected to have an impact on global health.

## 20.6. Impacts on social, economic and environmental living conditions that could indirectly affect health

**1064.** Extending the Assembly franchise to 16- and 17-year olds, and thereby giving young people a direct influence upon the makeup of future governments, may indirectly have a positive effect in relation to social, economic and environmental living conditions that could indirectly affect health.

**1065.** A consultation carried out by the Children's Commissioner for Wales from April to July 2015 identified the following issues of particular concern to improving the lives of children and young people:

- "Children's needs for emotional warmth and support (mainly identified by children and young people)
- Parenting, support for parenting and the needs of parents (mainly identified by professionals)
- Educational issues including (for children and young people) the quality of education and educational facilities and (for adults) educational support and issues relating to testing and exam stress
- Access to health care and the promotion of healthy lifestyles, plus (for adults) the health needs of specific groups
- A perceived shortage of mental health service provision
- The importance of play and freedom and of leisure facilities in the local area
- The importance of access to technology and the internet (mainly children and young people)

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- The Welsh language, including the need for more support for schools and activities outside school
  - Transitions from child to adult services (identified mainly by professionals).<sup>220</sup>

**1066.** It may reasonably be proposed that at least a proportion of young people enfranchised with the ability to vote in assembly elections may be inclined to vote in favour of those persons that they consider most able to address these issues. Likewise it may reasonably proposed that parties may be more likely to develop corresponding policies to appeal to young voters.

**1067.** A significant number of these issues have clear implications for improving health and wellbeing. For example, improving “the availability of leisure facilities in a local area” would facilitate individuals in being physically active. Likewise policies developed to address “children’s needs for emotional warmth and support”, and “a perceived shortage of mental health service provision” could have positive mental health benefits. Similarly, policies addressing “access to health care and the promotion of healthy lifestyles” would clearly have a wide range of health benefits.

**1068.** An argument can also be made that the enfranchisement of most 16- and 17-year olds may in and of itself have an indirect, beneficial impact on mental health. The sense of being excluded from decisions that affect a person, or otherwise the sense of not being in control of such decisions, may negatively impact on a person’s mental health. Consequently, 16- and 17-year olds enfranchised with being able to vote in Assembly elections (and therefore having a margin of control around fundamental decisions on the government of their nation) may be seen as potentially having an indirect, beneficial impact on mental health.

## 20.7. Impact on an individual’s ability to improve their own health and well-being

**1069.** The Bill would not adversely affect the ability of individuals to be physically active, choose healthy food, and reduce drinking and smoking.

**1070.** As noted above, an argument may also be made that the Bill could potentially have a positive impact on the provision of places for young people to be physically active.

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<sup>220</sup> Children’s Commissioner for Wales, [Beth Nesa? What Next? The findings](#), February 2016.

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## 20.8. Demand for or access to health and social care services

**1071.** It is not believed that the Bill would directly impact on demand for, or access to, health and social care services.

**1072.** However, as noted above, an argument may be advanced that the enfranchisement of children and young people to vote in Assembly elections could indirectly have a positive impact (given that “access to health care” is one of the issues identified as being of particular concern).

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## 21. Sustainable development

### 21.1. Date of impact assessment

**1073.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 21.2. Purpose of impact assessment

**1074.** This Sustainable Development Impact Assessment is not a statutory requirement but has been prepared as good practice.

**1075.** Sustainable development is about improving the way that we can achieve our economic, social, environmental and cultural well-being. The *Well Being of Future Generations (Wales) Act 2015* sets out the following definition:

“sustainable development’ means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.”<sup>221</sup>

**1076.** The purpose of this impact assessment is therefore to consider the impact, if any, this Bill will have on sustainable development.

### 21.3. Who has been consulted with as part of developing this impact assessment?

**1077.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment.

### 21.4. The impacts on sustainable development

**1078.** On the basis of the consultation exercises noted above and research undertaken by Commission officials, the following provisions in the Bill relating to the following issues may have an impact on sustainable development.

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<sup>221</sup> Well-being of Future Generations (Wales) Act 2015, Part 2 “improving well-being” section 2 “sustainable development”.

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#### 21.4.1. Entitlement to vote in Assembly elections

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**1079.** An argument may be advanced that enfranchising 16- and 17-year olds with the ability to vote may indirectly lead to a greater focus on sustainable development, as “the environment” and “sustainability” are frequently identified as key concerns to this demographic.<sup>222</sup>

**1080.** This argument is based upon the assumption that voters are more likely to vote for the persons and parties that they believe will address the issues that concern them.

#### 21.4.2. Clarify Assembly Commission powers to charge for goods and services

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**1081.** A tentative argument may be advanced that clarifying the Assembly Commission’s powers (in relation to its ability to charge for services that are not related to its functions) would have a positive impact in relation to the sustainability of its services. However, this argument is not considered to have a significant bearing in relation to the sustainability of services, as the Commission has no plans currently to charge for services delivered (other than in connection with its functions). Rather, the clarification of the legislation (to remove the ambiguity) is primarily intended to reduce the potential for any future legal challenge, if the Commission was to change its policy in the future.

#### 21.4.3. Summary of the Bill’s impact on sustainable development

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**1082.** It is not believed that the Bill has a negative impact on sustainable development.

**1083.** It is believed that the provisions of the Bill may indirectly have a positive impact on sustainable development.

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<sup>222</sup> See for example, The Guardian, [Young people urge UK politicians to help safeguard nature](#), 25 July 2016, which reports that “almost nine out of 10 young people think it is important for politicians to take care of wildlife and the environment,” or BBC, [Survey: Half of young people want electric cars](#), 12 July 2018, which reports that “Half of young people in the UK would like to own an electric car – compared with just a quarter of their parents”.

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## 22. Impact on small businesses and the third sector

### 22.1. Date of impact assessment

**1084.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 22.2. Purpose of impact assessment

**1085.** This impact on small businesses and the third sector impact assessment is not a statutory requirement but has been prepared as good practice.

**1086.** The purpose of this impact assessment is to consider the impact of the Bill's provisions on small businesses and the third sector and to consider any changes needed to the Bill in order to mitigate negative impacts or ensure more positive impacts in those sectors.

### 22.3. Who has been consulted with as part of developing this impact assessment?

**1087.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment, along with research undertaken by Commission officials.

### 22.4. The Bill's impacts on small businesses and the third sector

**1088.** The Bill's provisions on the following issues are not considered to impact in any way on small businesses and the third sector:

- entitlement to vote in Assembly elections;
- name of the Assembly;
- a duty on the Senedd to consider the financial and oversight arrangements of the Electoral Commission;
- date of the first meeting of the Assembly;
- clarify Assembly Commission powers to charge for goods and services;

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- implementation of Law Commission recommendations for rationalisation of electoral law.

**1089.** However, the issue of disqualifications (from being an Assembly Member) is considered to have a potential impact on the third sector, as detailed below.

## 22.5. Disqualification from being an Assembly Member

**1090.** The Bill has impacts for organisations in the third sector, but it is not considered that these will be substantive, nor that they will be wholly negative or positive in nature.

**1091.** In particular, the Bill establishes a new disqualifications framework, so that people with certain roles are disqualified from standing as candidates for election to the Assembly, while others are disqualified solely from taking the oath or affirmation of allegiance as an Assembly Member.

**1092.** Some of these roles may be considered to have relevance to the third sector, such as members of the Arts Council of Wales, or the Care Council for Wales.

**1093.** Currently, persons occupying such roles have to resign before they could stand for election. This has two potentially negative effects. First, if such persons resign from their roles, to stand for election, this causes disruption to the organisations they work for (because they have to replace such staff). Second, potential candidates may be dissuaded from standing on the basis that they would have to first resign from their existing jobs. This results in the Assembly potentially not benefitting from such persons' skills, expertise and personal knowledge of working with the third sector.

**1094.** Disqualifying a person occupying such a role only at the point of taking the oath or affirmation of allegiance resolves the two issues outlined above. An argument can therefore be proposed that the Bill has a positive impact for the third sector.

**1095.** However, a counter-argument could be made that as a result of these effects, there could be an increase in the number of persons occupying such roles who were willing to stand for election. If these candidates were then to be elected, they would then be required to resign from their roles. In turn this could potentially be seen as having a negative impact on the third sector, in that they would be required to replace such staff.

**1096.** In considering both these arguments, it is notable that the number of persons likely to be affected is low.

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## 22.6. Summary of the Bill's impact on small businesses and the third sector

**1097.** It is considered that there will not be a substantial impact on the third sector, and nor that such impacts will be wholly negative or positive in nature.

**1098.** No substantive impacts have been identified in relation to small businesses.

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## 23. Privacy Impact Assessment

### 23.1. Date of impact assessment

**1099.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 23.2. Purpose of impact assessment

**1100.** This Privacy Impact Assessment is not a statutory requirement but has been prepared as good practice.

**1101.** The purpose of this impact assessment is to consider the impact of the Bill's provisions on privacy and to consider any changes needed to the Bill in order to mitigate negative impacts or ensure more positive impacts on privacy.

**1102.** The Assembly Commission has set out the intention to extend the franchise for Assembly elections to 16- and 17-year olds.

**1103.** In order to give effect to the extension of the franchise it will be necessary to make change to the primary and secondary legislation which supports the collection, handling and processing of personal data in the form of electoral registers (sometimes referred to as electoral rolls). The personal details of those eligible to vote is already collected and processed by electoral registration officers.

### 23.3. Who has been consulted with as part of developing this impact assessment?

**1104.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment.

### 23.4. The impacts on privacy

**1105.** On the basis of the consultation exercises noted above and research undertaken by Commission officials, the majority of the Bill's provisions are not considered to have an impact on privacy.

**1106.** However, the enfranchisement of 16- and 17-year olds to vote in Assembly elections is considered to have a number of potential privacy implications. These are considered below.

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## 23.5. Entitlement to vote in Assembly elections

**1107.** A reduction in the minimum voting age necessarily means that new sets of data will be held about children and young people (both 16- and 17-year old voters, and 14- and 15-year old attainers).

**1108.** In Wales, every local authority is required by statute, under the terms of the *Representation of the People Act 1983*, to appoint an electoral registration officer who has the statutory duty of compiling and maintaining the electoral roll (the official list of those registered to vote within the local authority area). Their duties also include an annual canvass of electors. The electoral roll is published each year on 1 December.

**1109.** Registration officers keep two registers – the electoral register and the open register (also known as the edited register).

**1110.** The electoral register lists the names and addresses of everyone who is registered to vote in public elections. The register is used for electoral purposes, such as making sure only eligible people can vote. It is also used for other limited purposes specified in law, such as: detecting crime (e.g. fraud), calling people for jury service and checking credit applications. It is also available to political parties for election purposes.

**1111.** The open register is an extract of the electoral register, but is not used for elections. It can be bought by any person, company or organisation. For example, it is used by businesses and charities to confirm name and address details.

**1112.** A voter's name and address are included in the open register unless they ask for them to be removed. Removal of details from the open register does not affect the individual's right to vote.

**1113.** At present, only those aged 18 and over are eligible to vote in National Assembly elections in Wales. Voting in local elections in Wales is also currently limited to British citizens living in Wales, qualifying Commonwealth citizens living in Wales, citizens of the Republic of Ireland living in the Wales, European Union citizens living in Wales, and individuals registered to vote as Crown Servants and individuals registered to vote as service voters.

**1114.** If the proposals set out above are implemented, the right to vote will be extended to 16- and 17-year olds. Their details would also therefore need to be included on the electoral roll.

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**1115.** The register will include 16- and 17-year olds as full electors. 14- and 15-year olds would also be entitled to be included on the local government register as “attainers”.

**1116.** No information on those aged under 16 must be included on any version of the register or any absent voting list published or otherwise made available.

**1117.** The risk of a data breach will be mitigated by provision about the handling of such data and the creation of an offence for a breach of duty in connection with the incorrect disclosure of data of a young person.

### 23.6. Summary of the Bill’s impact on privacy

**1118.** It is considered that the provision to extend the right to vote in Assembly elections to 16- and 17-year olds could have a negative impact on privacy, but that this negative impact is mitigated by the creation of an offence for a breach of duty in connection with the incorrect disclosure of data of a young person.

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## 24. Rural Proofing Impact Assessment

### 24.1. Date of impact assessment

**1119.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 24.2. Purpose of impact assessment

**1120.** This rural proofing impact assessment is not a statutory requirement but has been prepared as good practice.

**1121.** Consideration has been given as to whether any provisions of the Bill could have a detrimental impact on the rural community. The purpose of this rural proofing impact assessment is therefore to consider any changes needed to the Bill in order to mitigate negative impacts or ensure more positive impacts on rural proofing.

### 24.3. Who has been consulted with as part of developing this impact assessment?

**1122.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped to inform the preparation of this impact assessment.

### 24.4. The impacts on rural proofing

**1123.** The majority of the Bill's provisions are not considered to have an impact in any way on rural proofing.

**1124.** Two elements of the Bill (the enfranchisement of 16- and 17 year-olds to vote in Assembly elections, and the Bill's provisions on disqualifications from being an Assembly Member) are considered to have potential impacts on the rural community, but these are not considered to be wholly positive or negative. They are considered in turn below.

### 24.5. Entitlement to vote in Assembly elections

**1125.** In relation to the reduction of voting age, it is noted that a substantive proportion of 16- and 17-year olds will not be able to legally drive (16 year olds cannot legally drive, and 17 year olds will have had less opportunity to learn to drive than other age groups).

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**1126.** An argument could therefore be advanced that 16- and 17-year olds in rural communities may face greater challenges in accessing polling stations, compared to 16- and 17-year olds in urban areas.

**1127.** However, the locations of polling stations are already selected with the intention of minimising accessibility barriers for voters, and 16- and 17-year olds would be able to vote via postal ballot, like other voters. As such, the reduction in voting age is not considered to have a detrimental impact on the rural community.

**1128.** It is also worth noting that the Welsh Government is considering changes to voting methods and arrangements that would, if implemented, help to address barriers to voting including those that are particularly prevalent in rural areas. The former Cabinet Secretary for Local Government and Public Services, Alun Davies AM, noted:

“Voting at elections in this country has been conducted in more or less the same way since the nineteenth century. Most of us go to a polling station and put a cross on a piece of paper using a heavy leaded pencil on a piece of string. Many people like this in fact, because it is a bit of an event, a chance to speak to the neighbours, and, in general, people do trust it. However, Presiding Officer, we also know that it is increasingly at odds with people’s everyday lives, and this is especially true for young people. For this reason, I intend to legislate for pilots at local elections and by-elections that would explore the options of electronic voting and counting, and voting in different places and on different days.”<sup>223</sup>

## 24.6. Disqualification from being an Assembly Member

**1129.** As noted in the assessment of the Bill’s impact on private businesses and the third sector, the Bill establishes a new disqualifications framework, so that people with certain roles are disqualified from standing as candidates for election to the Assembly, while others are disqualified solely from taking the oath or affirmation of allegiance as an Assembly Member.

**1130.** Some of these roles may be considered to have relevance to the rural community, such as the Chief Executive and members of Natural Resources Wales, members of the Agricultural Land Tribunal Wales, members of the Joint Nature Conservation Committee, and members of a National Park authority for a National Park in Wales (this is not intended to be an exclusive list).

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<sup>223</sup> National Assembly for Wales, Records of Plenary Proceedings, 30 January 2018.

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**1131.** Currently, persons occupying such roles have to resign before they can stand for election. This has two potentially negative effects for the rural communities of Wales. First, if such persons do resign from their roles to stand for election, this can cause disruption both to the organisations they work for (because they have to replace such staff), and by association the work that such staff were responsible for. Second, potential candidates may be dissuaded from standing to be candidates (on the basis that they would have to first resign from their roles), which would result in the Assembly potentially not benefitting from their experience of working with the rural communities of Wales.

**1132.** Disqualifying a person occupying such a role only at the point of taking the oath or affirmation of allegiance resolves the two issues outlined above. An argument can therefore be proposed that the Bill has a positive impact for the rural communities of Wales.

**1133.** However, a counter-argument could be made that as a result of these effects of the Bill, there could be an increase in the number of persons occupying such roles who are willing to stand for election. If these candidates were then to be elected, they would then be required to resign from their roles. In turn this could potentially be seen as having a negative impact on the rural community, in that relevant-bodies would be required to replace such staff (which by association could cause disruption in delivering their work).

## 24.7. Summary of the Bill's impact on rural proofing

**1134.** In considering the arguments, it is notable that the number of persons likely to be affected is low. As such, it is considered that there will not be a substantial impact in terms of rural proofing.

**1135.** In summary, the provisions of the Bill are not considered to have a detrimental impact in terms of rural proofing.

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## 25. Environmental and social benefits and dis-benefits that cannot be quantified financially

### 25.1. Date of impact assessment

**1136.** This impact assessment was initiated in March 2017 and maintained on an ongoing basis until the introduction of the Bill in February 2019.

### 25.2. Purpose of impact assessment

**1137.** This assessment is required under the Standing Orders of the National Assembly for Wales (Standing Order 26.6 (ix)).

**1138.** The purpose of this assessment is to consider environmental and social benefits and dis-benefits that cannot be quantified financially.

### 25.3. Who has been consulted with as part of developing this impact assessment?

**1139.** Details of who has been involved or consulted with as part of developing the Bill can be found in section 5 of this document. Responses to the consultations helped inform the preparation of this impact assessment.

### 25.4. The impacts on environmental and social benefits and dis-benefits that cannot be quantified financially

**1140.** On the basis of the consultation exercises noted above and research undertaken by Commission officials, provisions in the Bill relating to the following issues have been identified as potentially having an impact on environmental and social benefits and dis-benefits that cannot be quantified financially:

### 25.5. Entitlement to vote in Assembly elections

**1141.** Extending the vote to 16- and 17-year olds may potentially result in a greater governmental focus on policies that are of concern to such people. Safeguarding the environment is consistently of concern to people in this age group.<sup>224</sup> An argument can therefore be advanced that the Bill may indirectly have positive environmental benefits.

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<sup>224</sup> See for example: Reuters, [Children around globe worry about education, environment: poll](#), 20 November 2012

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**1142.** However, an argument can also be made that a direct implication of increasing the number of people eligible to vote is to inevitably increase the carbon footprint of each Assembly election. A possible mitigation on this argument is that 16- and 17-year olds are more likely to car-share, or otherwise actively travel to polling stations (as a large proportion of this group cannot legally drive).

**1143.** Social benefits can also be identified in extending the vote to 16- and 17-year olds, in terms of their inclusion in societal decision making. Legislating to reduce the minimum voting age provides an opportunity to promote equality of opportunity for 16- and 17-year olds to vote in Assembly elections and widen democratic engagement.

## 25.6. Name of the Assembly

**1144.** The Bill is considered to have a number of social benefits. It is believed that changing the name of the Assembly to a name that more accurately reflects its role and responsibilities will improve public understanding of the role of the legislature.

**1145.** Provisions relating to the following issues are not considered to impact in any way on environmental and social benefits and dis-benefits that cannot be quantified financially:

- Disqualification from being an Assembly Member;
- Implementation of Law Commission recommendations for rationalisation of electoral law;
- Date of the first meeting of the Assembly;
- Clarify Assembly Commission powers to charge for goods and services.

## 25.7. Summary of the Bill's impact on environmental and social benefits and dis-benefits that cannot be quantified financially

**1146.** It is not considered that the Bill's provisions have any negative impacts on environmental and social benefits or dis-benefits that cannot be quantified financially.

**1147.** It is believed the provision to extend the entitlement to vote in Assembly elections to 16- and 17-year olds could have a positive social impact and a positive impact on the environment.

**1148.** It is believed the provision to change the name of the Assembly could have a positive social impact.

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# Part 4: Explanatory Notes

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# **Senedd and Elections (Wales) Bill**

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## **EXPLANATORY NOTES**

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These Explanatory Notes are for the Senedd and Elections (Wales) Act 2019 which was passed by the National Assembly for Wales on [ ] and received Royal Assent on [ ]. They have been prepared by [ ] to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

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## PART 2

### Name of the National Assembly for Wales

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

This Part makes provision to change the name of the National Assembly for Wales to the “Senedd” and to make other associated changes. The Senedd may also be known as the Welsh Parliament. Acts of the National Assembly for Wales will become known as Acts of the Senedd or Deddfau’r Senedd. Members of the National Assembly for Wales will become 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. This Part 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 - Senedd**

1. Section 2 (1) re-names the Assembly for Wales (constituted by section 1 of the 2006 Act) as the “Senedd”. Section 2 (2) provides that the Senedd may also be known as the Welsh Parliament.

#### **Section 3 - Acts of the Assembly for Wales**

2. Section 3 provides that Acts of the Assembly for Wales are to be known as Acts of the Senedd, or Deddfau’r Senedd.

#### **Section 4 - Members of the Assembly for Wales**

3. 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**

4. Section 5 provides 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**

5. Section 6 provides that the National Assembly for Wales Commission is to be known as the Senedd Commission or Comisiwn y Senedd.

#### **Section 7 - National Assembly for Wales Remuneration Board**

6. Section 7 provides that the National Assembly for Wales Remuneration Board is to be known as the Independent Remuneration Board of the Senedd or Bwrdd Taliadau Annibynnol y Senedd.

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## **Section 8 – National Assembly for Wales Commissioner for Standards**

7. Section 8 provides that the National Assembly for Wales Commissioner for Standards is to be known as the Senedd Commissioner for Standards or Comisiynydd Safonau y Senedd.

## **Section 9 – Amendments to existing legislation**

8. Section 9 introduces Schedule 1 which makes consequential amendments to the 2006 Act, the 2009 Measure and the 2010 Measure.

### **Schedule 1**

#### **Part 1 – Amendments to the Government of Wales Act 2006**

9. Paragraphs 1 to-17 make various amendments to the 2006 Act to reflect the new name of the Assembly.
10. Paragraph 5 makes amendments to Part 1 of the 2006 Act. It amends the interpretation of expressions in order that they refer to the new expressions as amended.
11. Paragraph 8 makes amendments to section 1 of the 2006 Act to provide that the Senedd may also be known as the Welsh Parliament.
12. Paragraph 18 makes it clear that nothing in paragraphs 1 to 17 of Part 1 affects paragraph 19, which lists words or provisions in the 2006 Act that are to remain unchanged.

#### **Part 2 – Amendments to the National Assembly for Wales Commissioner for Standards Measure 2009**

13. Paragraphs 20 to 25 make various amendments to the 2009 Measure to reflect the new name of the Assembly.
14. Paragraph 26 makes it clear that nothing in paragraphs 20 to 25 of Part 2 affects paragraph 27, which lists words or provisions in the 2009 Measure that are to remain unchanged.

#### **Part 3 – Amendments to the National Assembly for Wales (Remuneration) Measure 2010**

15. Paragraphs 28- 31 make various amendments to the 2010 Measure to reflect the new name of the Assembly.
16. Paragraph 32 makes it clear that nothing in paragraphs 28 to 31 of Part 3 affects paragraph 33, which lists words or provisions in the 2010 Measure that are to remain unchanged.

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## PART 3

### ELECTIONS

#### *Electoral Franchise*

This Part makes provision for lowering the voting age 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.

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

17. Sections 10 and 11 of the Act enable persons aged 16 and 17 years to vote at Senedd elections on or after 5 April 2021.
18. Section 10 amends section 12(1)(a) of the Government of Wales Act 2006 (“the 2006 Act”), which sets out who may vote at Senedd elections.
19. 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.
20. As section 12(1)(b) of the 2006 Act provides that the persons entitled to vote at Senedd elections must also be registered in the register of local government electors, this Part makes a number of changes to the process for registering local government electors in Wales to enable persons aged 16 and above to vote in Senedd elections.
21. Section 11 amends section 4 of the 1983 Act 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.

#### **Section 12 - Annual canvass**

22. Section 12 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.
23. Section 12(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.
24. Section 12(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.

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25. Section 12(2)(b) prevents registration officers from providing the date of birth of any person aged under 16 on pre-printed canvass forms.

### **Section 13 - Invitations to register**

26. Section 13 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.

27. Section 13(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.

28. Section 13(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.

29. Section 13(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.

30. Section 13(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 14 - Invitation to register: further provision about persons under the age of 16**

31. Section 14 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.

### **Section 15 - Application for registration**

32. Section 15 makes a number of amendments to the 2001 Regulations in relation to applications for registration of local government electors in Wales.

33. Section 15(2)(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.

34. The effect of the amendment in section 15(2)(b) is to require the Electoral Commission to include the additional information required in paragraph (1A) in its design of relevant application forms.

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35. Section 15(2)(c) 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 15(2)(d) 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 15(3) 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 15(4) 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 15(5) 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 16 - Review of entitlement to registration**

41. Section 16(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 16(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 17 - Anonymous registration**

44. Section 17 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

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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 18 - Declaration of local connection**

45. Section 18 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 18(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 18(3) 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.
49. Section 18(4) 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 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.
50. Section 18(4) also makes provision about how declarations of local connection should be marked on the register.

### **Section 19 - Service declarations**

51. Section 19(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).
52. Section 19(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

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government electors also ceases. When the entitlement to be registered ceases, the person's details must be removed from the register.

53. As with declarations of local connection, section 19(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.
54. Section 19(4) amends section 16 of the 1983 Act which makes provision about the contents of a service declaration.
55. 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.
56. Section 19(5) 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 20 - Contents of service declarations**

57. Section 20 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 20(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.
58. Section 20 (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.
59. Section 20 (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 21 - Service declarations: further provision**

60. Section 21 makes further provision about service declarations in amendments to the 2001 regulations.
61. Section 21 (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.

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62. Section 21(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.

63. Section 21(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 of a copy of the applicant's passport or identity card. If a copy is provided it must be certified by a "relevant official". Section 21(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 22 - Register of electors**

64. Section 22 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 18.

65. 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 23 - Protection of information about persons aged under 16**

66. Section 23 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 23, 24 and 25 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 24 - Exceptions from prohibitions on disclosure**

67. Section 24 sets out the circumstances under which a young person's information may be disclosed.

68. Section 24(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.

69. Section 24(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 25- Further provision for exceptions**

70. Section 25 sets out the power of Welsh Ministers to make regulations about the disclosure of a young person's information in connection with elections to the Senedd.

71. Section 25(2) sets out a non- exhaustive list of the kind of provision that may be made in the regulations. This includes provision about:

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- 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.

72. Section 25(3) allows for regulations to amend or repeal any of the exceptions for prohibition of 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.
73. Section 25(4) requires the Welsh Ministers to consult such persons they consider appropriate before making regulations under this section.

#### **Section 26 - amendments to the National Assembly for Wales (Representation of the People) Order 2007**

74. Section 26 inserts a definition of "voting age" into the National Assembly for Wales (Representation of the People) Order 2007 and amends the definition of "qualifying Commonwealth citizen". The Order makes detailed provision about the conduct of Senedd elections, including provision about voting and voters. The amendment changes the meaning of voting age to persons aged 16 or over. In relation to the definition of "qualifying Commonwealth citizen", the amendment also changes "indefinite leave to remain within the meaning of that Act" to "any description of such leave".

#### **Section 27 - Duty to consider reform of oversight of the administration of Welsh elections**

75. This section places a duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission in relation to devolved elections and devolved referendums. The purpose of such consideration is to make recommendations for the reform of such arrangements. This duty could be discharged by the Senedd, or the Senedd may by standing orders make provision which delegate this function to the Presiding Officer or one of its committees or sub-committees. The section also places a duty on the Electoral Commission to respond to any recommendations relevant to it, by laying a report before the Senedd.

#### **Section 28 Regulations under this Part**

76. This section makes general provision relating to the scope of regulations made under this Part and the procedures applicable to them.

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## PART 4

### Disqualification

#### *Disqualification*

This Part is based on the recommendations made by the Constitutional and Legislative Affairs Committee of the National Assembly in its report on disqualification in July 2014. It includes specific references in the Government of Wales Act 2006 (“the 2006 Act”) to disqualifying circumstances that previously applied indirectly by reference to disqualification from membership of the House of Commons.

It distinguishes between the circumstances that are a bar to candidature for the Senedd and those offices that are a bar to membership of the Senedd but not to candidature. The latter are those that 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.

The special arrangements made in relation to Members of Parliament in sections 17A and 17B of the Government of Wales Act 2006 are retained. Special provision is made in relation to members of the House of Lords.

These changes will take effect from the general election for the Senedd scheduled to take place in May 2021.

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

77. Section 29 amends section 16 of the 2006 Act, which contains the current disqualification framework.
78. Subsection (2)(a) disqualifies members of the House of Lords from membership of the Senedd, subject to the provisions in the new section 17C of the 2006 Act (which excepts from the disqualification those members of the House of Lords on leave of absence from that House).
79. Subsection (2) also replaces the current disqualifications that are linked to disqualifications from membership of the House of Commons. It does so by reference to a new Schedule 1A to the 2006 Act that sets out the circumstances that disqualify persons from standing for election to the Senedd.
80. Subsection (4) amends section 16(1)(b) of the 2006 Act, which is the paragraph that introduces the power for the Welsh Ministers to designate disqualifying offices by order. The amendment inserts a cross-reference to the new subsection (1B) (inserted by subsection (3) of this section) which confirms that offices designated by order do not disqualify individuals from being candidates for the Senedd and only disqualifies them from membership of the Senedd if they have not resigned or otherwise vacated the disqualifying office before taking the oath or affirmation of allegiance.
81. Subsection (2) 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

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Services Ombudsman for Wales from membership of the Assembly. Those disqualifications are retained, but are now included with other disqualifying circumstances in Schedule 1A to the 2006 Act.

82. Paragraph (1)(e) of section 16, that is also removed by subsection (2), refers to persons employed as a member of the staff of the Assembly. That is replaced by the entry relating to the Clerk of the Senedd in Schedule 1A. Other members of staff may be designated in the order made by the Welsh Ministers under section 16(1)(b) of the 2006 Act, which would require them to resign before they could take up office as a Member of the Senedd. Their contracts of employment and the staff Code of Conduct may also prevent them being candidates for election to the Senedd.
83. Subsection (3) introduces subsections (1A) and (1B) to section 16. Subsection (1A) confirms that those persons disqualified by virtue of paragraphs (zc) and (zd) – and therefore Schedule 1A – **are** disqualified from being candidates for election to the Senedd.
84. Subsection (1B) confirms that persons disqualified by virtue of subsection (1)(b) – and orders made by the Welsh Ministers under it – **are not** disqualified from being candidates. They are only disqualified from membership of the Senedd if they fail to resign or otherwise vacate the disqualifying office before taking the oath or making the affirmation of allegiance. Section 23 of the 2006 Act specifies that Members of the Senedd must take the oath or make the affirmation within two months of being elected. They may not take part in proceedings of the Senedd or receive payment until they have done so.
85. The words ‘or otherwise vacated’ in the new subsection (1B) will apply to offices that may have been designated, but cannot be formally resigned. They would include, for example, members of the armed forces who would apply to be discharged rather than resign.
86. Subsection (4) removes subsections (2) to (4) from section 16. These relate respectively to disqualifications other than under the House of Commons Disqualification Act 1975, disqualification of offenders and the disqualification of lords-lieutenant, lieutenants and high sheriffs. These disqualifications are instead set out more fully in the new Schedule 1A.
87. Subsection (5) amends subsection (5) of section 16 to make it clear that the word ‘office’ includes ‘any post or employment’ wherever it is used for the purposes of this section.
88. Subsection (6) formally introduces the new Schedule 1A.

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

89. Section 30 amends section 17 of the 2006 Act. Subsection (2) removes the exception from disqualification for peers and Lords Spiritual (archbishops and bishops). This is replaced by the exception for members of the House of Lords with leave of absence in the circumstances set out in the new section 17C.

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90. Subsection (3) amends section 17(2) to bring together reliefs from disqualification under section 3 of the Act of Settlement of 1700 for EU citizens resident in the UK, Irish citizens (whether or not resident in the UK), and qualifying Commonwealth citizens (see paragraph 2 of Schedule 1A).
91. Subsection (4) removes the limited disqualifying provisions in relation to which the Senedd can grant relief. Previously, relief could only be granted in relation to disqualification under sections 16(1) and (4). Section 16(1) now, by reference either to Schedule 1A or to the order made by the Welsh Ministers, contains all the disqualifying provisions. Section 16(4) is repealed by section 29(4). The words that are removed are therefore unnecessary. The Senedd will be able to grant relief if any ground for disqualification has been removed and if it is proper for the Senedd to resolve that relief should be granted.

### **Section 31 - Exception from disqualification by virtue of being a member of the House of Lords**

92. Section 31 introduces a new section 17C to the 2006 Act. Members of the House of Lords were previously not disqualified 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(2)(a) of this Act), subject to the exception introduced by this section for members who have sought leave of absence from the House of Lords.
93. Under subsection (1), members of the House of Lords will not be disqualified if they obtain leave of absence from it. Subsection (2) explains that this exception will apply if, within 8 days of being elected, they apply for leave of absence from that House and provide a copy of the application to the Clerk of the Senedd.
94. Members of the Senedd who become members of the House of Lords will become disqualified unless, within 8 days of introduction as a member of that House, they apply for leave of absence and provide a copy to the Clerk of the Senedd (subsections (3) and (4)).
95. Subsection (5) applies to a former Member of the Senedd who had leave of absence from the House of Lords and has been re-elected to the Senedd. For the exception to continue to apply, the Member will need (before taking the oath or making the affirmation) to provide the Clerk with written confirmation that the leave of absence continues.
96. Subsection (6) make a corresponding provision when an UK general election takes place while a Member of the Senedd has leave of absence from the House of Lords. Following the dissolution of Parliament, the Member will need to renew the leave of absence for the new Parliament and provide the Clerk with written confirmation of that renewal.
97. In each case, the exception from disqualification will come to an end if the application for leave of absence is withdrawn or is refused.

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### **Section 32 - Effect of disqualification**

98. Section 32 amends section 18 of the 2006 Act. Subsection (2) introduces new subsections (A1) and (A2) into section 18. Subsection (A1) confirms that a person disqualified by virtue of section 16(1)(zc) or (zd) is disqualified from being a candidate as well as a Member of the Senedd. These are persons within one of the categories in Part 1 of Schedule 1A or holding one of the offices in Part 2 of that Schedule.
99. Subsection (A2) confirms that persons disqualified from being a Member of the Senedd under section 16(1)(za), (zb) or (b) are not disqualified until they take the oath or make the affirmation of allegiance and are therefore able to resign the disqualifying office before doing so.
100. Subsection (3) repeals subsection (2) of section 18 of the 2006 Act which applied to a disqualification that was limited to a particular constituency or electoral region. The only relevant disqualification was of lords lieutenant, lieutenants and high sheriffs. In accordance with the recommendation of the Assembly's Constitutional and Legislative Affairs Committee, that disqualification has now been extended to all parts of Wales, so subsection (2) is no longer relevant. Subsections (4) and (5) repeal corresponding provisions in subsections (3) and (8) of section 18 of the 2006 Act respectively.

### **Section 33 - Judicial proceedings as to disqualification**

101. Section 33 amends section 19 of the 2006 Act. Subsection (2) amends section 19(1) to remove another reference to a disqualification that was limited to a particular constituency or electoral region.
102. Subsection (3) inserts a new subsection (1A) into section 19. This prevents an application being made to the court under this section in relation to disqualifying offices until the period when they may be resigned or otherwise vacated has expired.

### **Section 34 - Consequential amendments**

103. Section 427(6B) of the Insolvency Act 1986 applies subsections (4) to (6) of that section (which deals with insolvency in Scotland) in relation to members of the Senedd. Subsection (4) provides that the seat of a member of the House of Commons disqualified by virtue of that section is only vacated at the end of a six-month period if the person remains disqualified under that section. Subsection (6B) (b) applies that provision to Wales as if it referred to section 16(2) of the 2006 Act.
104. Section 16(2) (which is repealed by this Act) referred to disqualification otherwise than under the House of Commons Disqualification Act 1975. Those disqualifications are now set out in the new Schedule 1A, which applies by virtue of section 16(1)(a). This subsection substitutes the new cross-reference.
105. In Schedule 5 (Assembly Election Rules) to the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236), rule 9(4)(c)(ii) requires the candidate's consent to nomination to state that 'to the best of his knowledge and belief he is not disqualified for membership of the Assembly'. Subsection (2) of this section amends that provision so that the declaration refers to "being a candidate", as the

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existing declaration would not be appropriate for those that hold offices that can be resigned or otherwise vacated.

106. Part 2 of Schedule 2 to this Act (the new Schedule 1A to the 2006 Act) contains a series of offices that disqualify their holders from being Members of the Senedd (or from being candidates). Some of those offices were previously included in the Schedule to the National Assembly for Wales (Disqualification) Order 2015 (S.I. 2015/1536). Subsection (3) of this section makes consequential changes to avoid duplication or inconsistency.

### **Schedule 2 – New Schedule 1A to the Government of Wales Act 2006**

107. This Schedule is inserted by section 29 of this Act into the 2006 Act as a new Schedule 1A. Part 1 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. Save as noted below, they restate existing disqualifications that apply under section 16 of the 2006 Act. Substantive changes made all relate to Part 2 of the Schedule.
108. Members of the House of Lords will in future be disqualified unless they have taken leave of absence in the circumstances provided for in section 17C.
109. A person holding office as a lord-lieutenant, lieutenant or high sheriff will be disqualified throughout Wales, rather than just in the areas in which they hold office.
110. The holders of a reduced number of judicial offices will be disqualified. Holders of part-time judicial offices will not be disqualified. In accordance with the Welsh Government's practice of not listing offices in Scotland and Northern Ireland as disqualifying offices in disqualification orders, provision will no longer be made for judicial offices in those jurisdictions to be disqualifying offices.
111. Civil servants and members of the police and armed forces will no longer be disqualified from being candidates, though they may be included in disqualifying orders that disqualify from membership of the Senedd.
112. Senedd Commission staff (apart from the Clerk) will no longer be disqualified in legislation from being candidates, though their terms of employment and staff Code of Conduct may have that effect.
113. Holders of certain offices for which political impartiality is particularly important will be disqualified in primary legislation, and it is made clear that acting holders of those offices, as well as statutory deputies, will be disqualified.

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## PART 5

### Miscellaneous

#### *Miscellaneous*

This Part makes various amendments to the 2006 Act. It changes the date for the first meeting of the Senedd following an election. It enables Welsh Ministers to give effect to changes to electoral law recommended by the Law Commission in order to achieve consistency between elections to the Senedd and local government elections. It also makes it clear that the Senedd Commission may charge for providing goods or services to the public.

#### **Section 35 – Timing of First Meeting**

114. Section 35 extends the deadline for the first meeting of the Senedd following an ordinary or extraordinary general election from 7 to 14 days.

#### **Section 36 – Power of the Welsh Ministers to make provision about elections etc.**

115. Section 36 amends section 13 of the 2006 Act (power of the Welsh Ministers to make provisions about elections) to add new subsections 1A- 1C which will enable Welsh Ministers to make regulations (subject to the affirmative procedure) to give effect to changes to electoral law recommended by the Law Commission for England and Wales. The purpose of the power is to develop consistency between the law applicable to Senedd elections and local government elections. Regulations under section 13 (1A) will enable Welsh Ministers to make provision about local government elections in addition to elections to the Senedd.

#### **Section 37 – Senedd Commission**

116. 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.

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## PART 6

### General

#### *General*

#### **Section 38 - General Interpretation**

117. Section 38 defines general terms which apply throughout the Act.

#### **Section 39 - Extent**

118. Section 39 sets out on the face of the Bill that it extends to England and Wales. This avoids the need for readers to be aware of the limitation to that effect in section 108A(2)(a) of the 2006 Act or the interpretation provision in section 154 of that Act.

#### **Section 40 - Coming into force**

119. Subsection (1) of this section sets out the provisions of the Act that come into effect on the date of Royal Assent, although the provisions that reduce the voting age and change the law on disqualification will only have effect from the Senedd general election scheduled for May 2021. Similarly, subsection (3) provides that section 35 (timing of the first meeting) will only apply after that election.

120. The provisions that change the name of the institution (Part 2 of the Bill, including Schedule 1) come into force on 6 May 2020.

#### **Section 41 - Short title**

121. Section 41 provides that the short title of the Act is the Senedd and Elections (Wales) Act 2019.

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# Annexes

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# Annex 1: The Legislative context of the Bill

## Name of the Assembly

- 1.** The *GOWA 1998* established the National Assembly for Wales as a corporate body, with the government and legislature operating as a single entity.
- 2.** Following the recommendations of the Richard Commission,<sup>225</sup> the *GOWA 2006* separated the legislature and executive. The *GOWA 2006* provides the statutory basis for the National Assembly for Wales, Assembly Members, the Assembly Commission and Acts of the Assembly:
  - **Section 1:** provides that “There is to be an Assembly for Wales known as the National Assembly for Wales or Cynulliad Cenedlaethol Cymru”.
  - **Section 26:** provides that the person appointed by the Assembly to be its Clerk is to be known as the Clerk of the Assembly, or by such other title as Standing Orders provide.
  - **Section 27:** provides that there will be a body corporate known as the National Assembly Commission or Comisiwn Cynulliad Cenedlaethol Cymru.
  - **Section 107:** provides that laws made by the Assembly are to be known as Acts of the National Assembly for Wales or Deddfau Cynulliad Cenedlaethol Cymru.
- 3.** Section 1 of the *National Assembly for Wales Commissioner for Standards Measure 2009*<sup>226</sup> makes provision for there to be a National Assembly for Wales Commissioner for Standards.

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<sup>225</sup> The [Commission on the Powers and Electoral Arrangements of the National Assembly for Wales](#), known as the Richard Commission, was established in July 2002 and reported in spring 2004.

<sup>226</sup> [National Assembly for Wales Commissioner for Standards Measure 2009, www.legislation.gov.uk/mwa/2009/4/contents](http://www.legislation.gov.uk/mwa/2009/4/contents)

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**4.** Section 1 of the *National Assembly for Wales Remuneration Measure 2010*<sup>227</sup> makes provision for there to be a National Assembly for Wales Remuneration Board.

## Entitlement to vote in Assembly elections

**5.** Sections 1 and 2 of the *Representation of the People Act 1983 (RPA 1983)*<sup>228</sup> set out the basic franchise for UK Parliamentary and local government elections respectively (local elections in Wales meaning elections to county and county borough councils and to community councils). A person is entitled to vote at National Assembly for Wales' elections (see section 12 of the *GOWA 2006*) if they would be entitled to vote as a local government elector and are on the local government register at an address within the relevant Assembly constituency.

### Current system of registration

**6.** In order to vote in elections or referendums, an eligible person needs to be on the electoral register. Section 9 of the *RPA 1983*, as amended, states that:

“Each registration officer shall maintain—

(a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and

(b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts.”

**7.** The electoral register is a list of the names and addresses of everyone who is able and registered to vote (or soon to become entitled to vote) and is held and maintained by the Electoral Registration Officer (ERO) for each principal council.

## Disqualification from being an Assembly Member

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<sup>227</sup> National Assembly for Wales Remuneration Measure 2010, [www.legislation.gov.uk/mwa/2010/4/enacted](http://www.legislation.gov.uk/mwa/2010/4/enacted)

<sup>228</sup> Representation of the People Act 1983, [www.legislation.gov.uk/ukpga/1983/2/contents](http://www.legislation.gov.uk/ukpga/1983/2/contents)

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**8.** The GOWA 2006 makes provision relating to disqualification from membership of the Assembly:

- **Section 16:** sets out disqualifications from membership of the Assembly and provides that an Order in Council may designate other disqualifying offices.
- **Section 17:** provides for exceptions and relief from disqualification from membership of the Assembly including a resolution by the Assembly to disregard a disqualification in certain circumstances.
- **Section 17A:** provides for exception from disqualification for recently elected Assembly Members who are Members of Parliament.
- **Section 17B:** provides exception from disqualification for Assembly Members returned as a Member of Parliament within 372 days of the next general election of Assembly Members.
- **Section 18:** provides for the effect of disqualification from membership of the Assembly including the vacancy of a seat previously held by a disqualified Member.
- **Section 19:** provides for judicial proceedings relating to disqualification including the right of any person to apply to the High Court for a declaration that a person purporting to be an Assembly Member is disqualified.
- **Rule 9(4)(c)(ii) of Schedule 5 to *The National Assembly for Wales (Representation of the People) Order 2007 (2007 Order)***<sup>229</sup>, made under section 11 of the GOWA 1998, requires candidates for election to the Assembly to declare on acceptance of nomination for election that to the best of their knowledge and belief they do not hold a disqualifying office (other than the office of MP).
- The *National Assembly for Wales (Disqualification) Order 2015 (2015 Order)*<sup>230</sup>, made in accordance with section 16(6) of the GOWA 2006, designates persons who are disqualified from being a

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<sup>229</sup> [The National Assembly for Wales \(Representation of the People\) Order 2007  
www.legislation.gov.uk/ukxi/2007/236/contents/made](http://www.legislation.gov.uk/ukxi/2007/236/contents/made)

<sup>230</sup> [National Assembly for Wales \(Disqualification\) Order 2015  
www.legislation.gov.uk/ukxi/2015/1536/contents/made](http://www.legislation.gov.uk/ukxi/2015/1536/contents/made)

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member of the National Assembly for Wales on the basis of offices or posts held by them.

## Duty on the Senedd to consider the financial and oversight arrangements for the work of the Electoral Commission

**9.** Some aspects of Assembly and local government elections in Wales are reserved matters in the *WA 2017*. This includes the subject-matter of provisions of the *PPERA 2000* in relation to elections of Assembly members and local government elections in Wales. However, paragraph 25 of the new Schedule 7A of the *GOWA 2006* (as inserted by the *WA 2017*) exempts from this reservation provisions in the *PPERA 2000* relating to the Electoral Commission, specifically:

- the financing of the Electoral Commission;
- the preparation, laying and publication by the Electoral Commission of reports about the performance of its functions;
- the provision by the Electoral Commission of copies of regulations made by it or notice of the alteration or revocation of such regulations.

**10.** Paragraphs 8(1)(a) and 8(1)(c) of Schedule 7B to the *GOWA 2006* provide that unless the appropriate Minister<sup>231</sup> consents, a provision will be outside legislative competence if, respectively, it confers or imposes (or by subordinate legislation confers or imposes), any function on a reserved authority, or the provision confers, imposes, modifies or removes (or by subordinate legislation confers, imposes, modifies or removes), functions specifically exercisable in relation to a reserved authority. A “reserved authority” is a Minister of the Crown or government department and any other public authority that is not a devolved Welsh authority.<sup>232</sup> A “public authority” is a body, office or holder of an office that has functions of a public nature.<sup>233</sup>

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<sup>231</sup> An “appropriate Minister” is the Secretary of State except where the reserved authority is HMRC, in which case it is the Treasury.

<sup>232</sup> As defined in Section 157A of, and listed in Schedule 9A to, *GOWA 2006*.

<sup>233</sup> Paragraph 8(4) of Schedule 7B to *GOWA 2006*.

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**11.** Section 27 of the Bill confers a function on the Electoral Commission. The Assembly is not required to seek consent of the Secretary of State for the provision by virtue of paragraph 9(2) of Schedule 7B to the *GOWA 2006*.

## Implementation of Law Commission recommendations for the rationalisation of electoral law

**12.** Various sections within Part 1 of the *GOWA 2006* (National Assembly for Wales) makes provision relating to Assembly elections. They include:

- **Section 2:** Assembly constituencies and electoral regions;
- **Section 3:** Ordinary general elections;
- **Section 4:** Power to vary the date of ordinary general elections;
- **Section 5:** Extraordinary general elections;
- **Section 6:** Voting at general elections;
- **Section 7:** Candidates at general elections;
- **Section 8:** Calculation of electoral region figures;
- **Section 9:** Allocation of seats to electoral region Members;
- **Section 10:** Constituency vacancies;
- **Section 11:** Electoral region vacancies;
- **Section 12:** Entitlement to vote;
- **Section 13:** Power to make provisions about elections etc.;
- **Sections 16–19:** Disqualification.

**13.** Sections 5 to 7 of the *WA 2017* make provisions relating to Assembly elections by amending sections of the *GOWA 2006*, the *RPA 1983*, the

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*Representation of the People Act 1985*<sup>234</sup> and the *Political Parties, Elections and Referendums Act 2000 (PPERA 2000)*.<sup>235</sup> These sections relate to:

- **Section 5:** powers to make provisions about Assembly elections;
- **Section 6:** the timing of Assembly elections;
- **Section 7:** Electoral registration – the digital service.

**14.** In addition to the Acts of the Assembly referred to above, the Law Commission identified that various UK Parliament Acts and subordinate legislation would need to be amended in order to fully implement its recommendations:

“Electoral law in the UK has become complex, voluminous and fragmented. There is an enormous amount of primary and secondary legislative material governing elections and referendums. The twin aims of the project are to ensure, first, that electoral laws are presented within a rational, modern legislative framework, governing all elections and referendums within its scope; and secondly, that provisions of electoral law are modern, simple, and fit for purpose.”<sup>236</sup>

## Date of the first meeting of the Assembly

**15.** The *GOWA 2006* makes provision for the period within which the Assembly must meet for the first time following an Assembly election:

- **Section 3(2)(b):** provides that the Assembly must meet within a period of seven days beginning immediately after the day of an ordinary general election if it is held on the first Thursday in May in an election year.
- **Section 4(2)(c):** provides that the Assembly must meet within a period of seven days beginning immediately after the day of an ordinary general election if the date of the election falls on a day other than the first Thursday in May.

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<sup>234</sup> [www.legislation.gov.uk/ukpga/1985/50](http://www.legislation.gov.uk/ukpga/1985/50)

<sup>235</sup> [www.legislation.gov.uk/ukpga/2000/41/contents](http://www.legislation.gov.uk/ukpga/2000/41/contents)

<sup>236</sup> Law Commission, *Electoral Law: An Interim Report* p.5, February 2016

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- **Section 5(4)(c)**: provides that the Assembly must meet within a period of seven days beginning immediately after the day of an extraordinary general election.
  - **Sections 3(4), 4(3) and 5(7)**: make provision relating to the calculation of the seven-day period in each case, in particular as it relates to weekends, bank holidays, and days appointed for public thanksgiving and mourning. **Sections 4(3) and 5(7)** also make provision in relation to the treatment of Good Friday for the purposes of calculating the seven day period. **Section 5(7)** also includes provision relating to the treatment of Christmas Eve and Christmas Day for such purposes.

## Clarify Assembly Commission powers to charge for goods and services

**16.** **Schedule 2** of the *GOWA 2006* makes provision relating to the powers and functions of the Assembly Commission. **Paragraph 4(4)** of that Schedule makes provision in relation to the Commission's powers to charge for goods and services sold or provided to the public.

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## Annex 2: Voting ages elsewhere in the UK

### UK

- 1.** Only people aged 18 and over are currently eligible to vote in elections for the UK Parliament, although people aged 16 and 17 are able to register to vote if they will turn 18 within 12 months beginning with the 1<sup>st</sup> December following the application for registration.
- 2.** The demand to allow 16- and 17-year olds a vote has been steadily increasing across the UK since the early 2000s. Two Private Members' Bills have been introduced in the House of Commons, and one in the House of Lords, to lower the minimum voting age. An amendment was tabled in the House of Lords to similarly lower the minimum voting age in respect of the EU Referendum Bill.
- 3.** The stated purpose of these calls to lower the minimum voting age is:
  - to allow young people to have a say in the services that affect their lives;
  - to introduce a sense of democratic participation at an age where young people are more likely to be in a familiar and stable environment; and
  - to counter the disengagement with democracy overall.

### Scotland

- 4.** 16- and 17-year olds were allowed to vote in the UK for the first time in the referendum on Scottish independence, held on 18 September 2014. Since the Scottish referendum, 16- and 17-year olds in Scotland have also voted in Scottish local and Scottish parliamentary elections.
- 5.** The 2014 Scottish referendum gives some indication on likely rates of registration amongst 16- and 17-year olds. In Scotland, 109,533 16- and 17-year olds are registered to vote, estimated at 89 per cent of those eligible. By contrast, it was claimed that 97 per cent of the total eligible electorate registered, suggesting higher registration for the general population than for 16- and 17-year olds.

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**6.** However, turnout of 16- and 17-year olds was estimated at 75 per cent, compared with 54 per cent of 18- to 24-year olds and 72 per cent of 25- to 34-year olds, though it was lower than for the electorate as a whole (85 per cent). On balance, this presents an argument in favour of extending the franchise, as an early experience of voting could well lead to a maintained engagement, which would – it is hoped – lead on to a greater interest in democratic politics more generally, including standing as a candidate.

**Table 36: Turnout in the Scottish independence referendum by age group**<sup>237</sup>

| Age Group | Reported Turnout |
|-----------|------------------|
| 16-17     | 75%              |
| 18-24     | 54%              |
| 35-54     | 85%              |
| 55+       | 92%              |

## Isle of Man

**7.** The Isle of Man extended the franchise to 16- and 17-year olds in 2006.

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<sup>237</sup> Electoral Commission, *Scottish Independence Referendum: Report on the Referendum Held on 18 September 2014*, December 2014

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## Annex 3: Analysis of arguments historically raised against lowering the minimum voting age

- 1.** A number of arguments have been raised against lowering the minimum voting age. These are considered in the paragraphs below.
- 2.** One objection to lowering the voting age is whether it fits with other rights and responsibilities. Table 32 of the Expert Panel's report<sup>238</sup> sets out the various ages at which rights and responsibilities are gained from being able to join the army and drink alcohol with a meal at 16, to getting married without parental consent and serving as a juror at 18. The Expert Panel examined the ages at which various rights are obtained and concluded that there is no single age at which a young person takes on all the responsibilities and rights of an adult:

“While comparisons between the ages at which young people acquire rights and responsibilities, or start to exercise those rights and responsibilities, may be relevant, we do not find them compelling in making the case for or against a reduction in the voting age.”<sup>239</sup>

- 3.** Another commonly stated concern about lowering the voting age is whether young people will turn out to vote. Franklin<sup>240</sup> concluded that young people would be more likely to vote in their first elections if they are based within their established networks, with relevant education available to them rather than in a transitional period such as starting new employment or attending University. As few countries have lowered the minimum age to 16, evidence to compare similar countries to Wales in relation to turn out is limited. However, the conclusions of the Expert Panel's report is that “what evidence there is tends to support the expectation that 16- and 17-year olds are more likely to vote than 18- to 24-year olds, if their enfranchisement is part of a package that also includes the provision of information tailored

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<sup>238</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that works for Wales*, p. 185

<sup>239</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that works for Wales*, p. 187

<sup>240</sup> Franklin, M (2004) *Voter Turnout and the Dynamics of Electoral Competition in Established Democracies since 1945*, Cambridge University Press/ Cambridge.

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specifically for this age group”.<sup>241</sup> For example, in Austria, turnout among 16- and 17-year olds is higher than among 18- to 21-year olds (although lower than for older voters).

**4.** A further point considered as a possible barrier to lowering the voting age is the quality of decision making informed by political knowledge and maturity. Paragraphs 15.21 to 15.24 of the Expert Panel’s report set out some of the evidence in respect of the differences between the knowledge and information held by 16-year olds compared with 18-year olds. This evidence has been collected from countries that have lowered the minimum voting age to 16 and countries that have not. The evidence overall is mixed. However, in Austria where there is political information and discussion available in schools to 16-year olds, there are no differences found between the political understanding of 16-year olds and that of slightly older voters.

**5.** It is recognised that young people in Wales below the age of 18 do have a very significant stake in the future of Wales and how it is run, regardless of their level of knowledge and information and whether or not they should be allowed to vote. This is reflected in the recent establishment of a Youth Parliament for Wales.

**6.** Finally, concerns have sometimes been expressed that there is limited international evidence to evaluate the impact of lowering the voting age. However, 16- and 17-year olds in the Isle of Man, Jersey, Guernsey, Brazil and Austria already have the vote. 16- and 17-year olds can also vote in some elections in Scotland, Germany, Malta and Norway. The minimum voting age in some countries also varies depending on a person’s status. For example, in Slovenia a 16-year old may vote if they are in employment. Similarly, in Hungary 16-year olds may vote if they are married.

**7.** The Expert Panel considered the international evidence available and concluded that:

“As few places have reduced the minimum voting age to 16, evidence allowing these arguments to be tested remains limited. However, what evidence there is tends to support the expectation that 16- and 17-year-olds are indeed more likely to vote than 18- to 24-year-olds, if their enfranchisement is part of a package that also

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<sup>241</sup> Expert Panel on Assembly Electoral Reform, [A Parliament that works for Wales](#), paragraph 15.19

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includes the provision of information tailored specifically for this age group.”<sup>242</sup>

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<sup>242</sup> Expert Panel on Assembly Electoral Reform, *A Parliament that works for Wales*, p.188

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## Annex 4: Rationale for drafting approach on the name change leaving out some references to “Assembly” in the Government of Wales Act 2006

1. Currently, Section 1(1) of the *GOWA 2006* says:

**“There is to be an Assembly for Wales to be known as the National Assembly for Wales or Cenedlaethol Cynulliad Cymru (referred to in this Act as ‘the Assembly’).”**

2. If the Bill is passed in its current form, Section 1 of the *GOWA 2006* will be amended to say–

“(1) There is to be an Assembly for Wales to be known as the ‘Senedd’.

(2) The Senedd may also be known as the ‘Welsh Parliament’.”

3. A more fitting and clearer constitutional statement, which would aid public understanding, would be to re-draft section 1(1) of the *GOWA 2006*, remove the word “Assembly” and say:

“There is to be a Welsh Parliament to be known as the Senedd.”

4. The reason for the approach adopted in paragraph 2 above reflects restrictions placed on the Assembly’s legislative competence by the *GOWA 2006*. The default position is that the Assembly cannot amend the *GOWA 2006*. This position is set out in paragraph 7(1) of Schedule 7B to the *GOWA 2006*.

5. Paragraph 7(2) of Schedule 7B sets out some express exceptions to this default position. As a result, the Assembly may, in fact, amend some provisions of *GOWA 2006*.

6. Section 1(1) falls within the exception and therefore may be amended, except for the words highlighted in bold (above in paragraph 1). So, the starting point is that the Assembly cannot amend those words.

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**7.** There is, however, an alternative proposition. Amendments to the *GOWA 2006* can be made where they are consequential on changing the name of the institution. This is specifically allowed under paragraph 7(4) of Schedule 7B. This would override the default position set out in paragraph 7(1).

**8.** The argument can be made that amending that word “Assembly” (where it first appears in section 1(1)) is a consequence of changing its name to Senedd. This is attractive and needs further consideration.

**9.** In passing the *GOWA 2006*, the UK Parliament decided that the body which it was creating would be an “Assembly”, not a “Parliament”. To amend that word (where it first appears in section 1(1)) would be to change the institution into something other than an Assembly. Doing so would be the expression of a separate policy, namely to change its nature. On balance, therefore, to do so would not be a consequence of changing its name. And if it is not a consequence, it cannot be amended.

**10.** Before reaching a conclusion, it is necessary to address a further argument.

**11.** It can reasonably be supposed that the purpose of the restriction on the amendment to section 1(1) was to ensure that the Assembly can change its name but nothing more. More particularly, if the Assembly had power to amend the whole of section 1(1), by implication, it would have the power to abolish itself. And, in passing the legislation, it cannot have been the UK Parliament’s intention to allow the Assembly to do that.

**12.** Again, this is an attractive argument.

**13.** In interpreting legislation, the purpose is only relevant where the words of the legislation lead to ambiguity. Where the words are clear, the courts will interpret them as written. The words of Schedule 7B, which restrict the amendment of section 1(1), are clear.

**14.** Finally, and for the sake of completeness, it should be noted that the same arguments arise as to section 107(1) of the *GOWA 2006* which is also not amendable, it currently says-

“The Assembly may make laws, to be known as Acts of the National Assembly for Wales or *Deddfau Cynulliad Cenedlaethol Cymru* (referred to in this Act as ‘Acts of the Assembly’.”

**15.** If the Bill is passed in its current form, section 107(1) will say-

“The Assembly may make laws, to be known as Acts of the Senedd or Deddfau’r Senedd.”

## Annex 5: Terms used to describe state and sub-state legislatures

**Table 37 Terms used to describe state and sub-state legislatures**

| Country | Institution  | Powers   |
|---------|--|--|
| UK      | State parliament: UK Parliament<br>Sub-state (nations): Parliament or Assembly                     | The powers of the devolved legislatures in the UK vary. They can all legislate, and all have the right to collect certain revenues and taxes. In April 2018, the National Assembly for Wales moved to a reserved powers model of legislative competence, in line with that in place in Scotland, albeit there remain differences between the specific powers that are reserved.  |
| Italy   | State parliament: Italian Parliament<br>Sub-state (regions): Regional Council or Regional Assembly | The Italian regions can legislate and have the right to collect certain revenues and taxes. The regions have exclusive legislative power with respect to any matters not expressly reserved to state law. They keep 20 per cent of all levied taxes, mostly used to finance the region-based healthcare system.<br><br>Each region has an elected parliament, called Consiglio Regionale (regional council), or Assemblea Regionale (regional assembly) and a government called Giunta Regionale (regional junta), headed by the regional president who is directly elected. |
| Spain   | State parliament: Spanish Parliament<br>Sub-state (autonomous communities, regions and historic    | The powers of the Spanish autonomous communities vary. The historic nation parliaments -Basque, Navarre, Catalonia, Castilla y Leon - have the most devolved powers. Basque and Navarre, unlike the other regions, are responsible for administering and   |

|                  |  |  |
|------------------|--|--|
|                  | nations): Parliament or Assembly   | <p>collecting taxes directly, of which a proportion is paid to the Spanish Government.</p> <p>The Basque Parliament can make laws in areas such as urban planning, public works, housing, environmental protection, cultural affairs, sports and leisure, tourism, health and social welfare, and the cultivation of the regional language. It has its own police force (the Ertzaintza), controls education and health systems, and has a Basque radio/TV station.</p> <p>Examples: the Basque Parliament, the Parliament of Navarre, the Parliament of Catalonia, the Parliament of Galicia, Assembly of Madrid.</p> |
| <b>Germany</b>   | <p>State parliament: The Parliament of Germany</p> <p>Sub-state (federal states): State Parliament</p>     | <p>Germany is a federal republic consisting of 16 federal states that are called the "Länder". Each has its own state parliament. Topics such as foreign affairs and defence are the exclusive responsibility of the German Government, while others fall under the shared authority of the states and the federation. The Länder retain legislative authority for areas such as culture, education and job training.</p>  |
| <b>Australia</b> | <p>State parliament: Parliament of Australia</p> <p>Sub-state (federal states): Parliament or Assembly</p> | <p>Australia is a federation, with six states and two self-governing territories. Each has its own constitution and legislature. The states retain the power to make their own laws.</p> <p>State laws relate to matters that are primarily of state interest such as: schools; health; Infrastructure and public transport; utilities; mining and agriculture; police; and prisons.</p> <p>Examples: Parliament of Queensland; Parliament of New South Wales; Northern Territory Legislative Assembly.</p>  |
| <b>Belgium</b>   | <p>State parliament: The Belgian Federal Parliament</p> <p>Sub-state (federal states): Parliament</p>      | <p>The Flemish, Wallonia-Brussels and Brussels-Capital Region and the French, German and Flemish communities have parliaments that have legislative powers for areas such as transportation, public works, water policy, cultural matters, education, public health,</p>   |

|               |  |   |
|---------------|--|---|
|               |  | <p>environment, housing, zoning, and economic and industrial policy. They rely on a system of revenue-sharing for funds. They have the authority to levy a few taxes (mostly surcharges).</p> <p>Examples: Flemish Parliament, Parliament of Wallonia, Parliament of the Federation Wallonia-Brussels, Parliament of the Brussels-Capital Region.</p>   |
| <b>France</b> | <p>State Parliament:<br/>The French Parliament</p> <p>Sub-state (regions):<br/>Regional Council</p>                          | <p>The French Parliament consists of the Senate (Sénat) and the National Assembly (Assemblée nationale). Regions lack separate legislative authority and therefore cannot write their own statutory law.</p>  |
| <b>Canada</b> | <p>State Parliament:<br/>The Parliament of Canada</p> <p>Sub-state (provinces and territories):<br/>Legislative Assembly</p> | <p>Canada is a federation with a national parliament and federal government and ten provincial legislatures. Each province (and territory) has its own legislature. Each legislative Assembly has control over areas such as; schools, health, social services and highways. The legislative assemblies have taxation powers with regard to personal corporate income taxes and consumer taxes.</p> <p>Examples: Legislative Assembly of Alberta; Legislative Assembly of New Brunswick; National Assembly of Quebec.</p> |

## Annex 6: Disqualifications elsewhere in the UK and Dáil Éireann

Each of the legislatures in the UK has its own rules on disqualification, but broadly speaking these are very similar. Both the Houses of the Oireachtas and the House of Lords disqualify those younger than 21, but all other legislatures set the minimum age for Members as 18. Disqualifying offences tend to be similar, as does disqualification for imprisonment, treason and bankruptcy. Some salient points are set out in Table 38.

**Table 38 A summary of the law on disqualification within UK legislatures**

| Institution         | Rules  |
|---------------------|--|
| House of Commons    | The major legislation governing disqualification from the Commons is consolidated in the <i>House of Commons Disqualification Act 1975</i> . <sup>243</sup> However other enactments and the common law also disqualify a range of people, such as minors and aliens, amongst other categories. Certain electoral offences carry the punishment of disqualification and these are set out in the <i>Representation of the People Act 1983</i> .  |
| Scottish Parliament | The Scottish Parliament was granted power to legislate on disqualification by virtue of the <i>Scotland Act 2016</i> . <sup>244</sup> It is yet to use this power. The latest list of disqualifying positions is found in the <i>Scottish Parliament (Disqualification) Order 2015</i> , <sup>245</sup> which is unusual in that it contains many positions specific to other regions of the UK, such as The Welsh Language Commissioner. There is no disqualification applied for being a member of the House of Lords. |
| Dáil Éireann        | The legislation governing disqualification in the Dáil is contained within the <i>Electoral Act 1992</i> . <sup>246</sup> This contains similar types of disqualifications to the <i>House of Commons Disqualifications Act 1975</i> , but includes an age limit of 21   |

<sup>243</sup> House of Commons Disqualification Act 1975

[www.legislation.gov.uk/ukpga/1975/24/contents](http://www.legislation.gov.uk/ukpga/1975/24/contents)

<sup>244</sup> Scotland Act 2016 [www.legislation.gov.uk/ukpga/2016/11/contents/enacted](http://www.legislation.gov.uk/ukpga/2016/11/contents/enacted)

<sup>245</sup> Scottish Parliament (Disqualification) Order 2015

[www.legislation.gov.uk/sdsi/2015/9780111028490](http://www.legislation.gov.uk/sdsi/2015/9780111028490)

<sup>246</sup> Electoral Act 1992 [www.irishstatutebook.ie/eli/1992/act/23/enacted/en/html](http://www.irishstatutebook.ie/eli/1992/act/23/enacted/en/html)

|                                  |   |
|----------------------------------|---|
|                                  | instead of 18 (the same age restriction as the House of Lords) and being a councillor in a local authority. Declarations are made at the candidacy stage.   |
| <b>Northern Ireland Assembly</b> | The legislation governing disqualification is primarily located in the <i>Northern Ireland Assembly Disqualification Act 1975</i> . <sup>247</sup> Disqualification is a reserved matter, but the Assembly is able to legislate in relation to this area with the consent of the Secretary of State. There is no disqualification applied for being a member of the House of Lords. Declarations are made at the candidacy stage. |

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<sup>247</sup> Northern Ireland Assembly Disqualification Act 1975  
[www.legislation.gov.uk/ukpga/1975/25](http://www.legislation.gov.uk/ukpga/1975/25)

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## Annex 7: Requirements on the maximum time available for a first meeting in other legislatures

**1.** Practice in other legislatures as to the period of time within which the first meeting must be held after an election varies. For example:

- the *Northern Ireland Act 1998* (as amended) states that the Northern Ireland Assembly must meet within a period of eight days following an election, and that the election of a Presiding Officer and Deputy Presiding Officers must be the first item of business;
- the first meeting of the New Zealand Parliament must take place within six weeks of an election;
- for the House of Commons, the date for summoning the new Parliament is set in the proclamation that dissolved the previous one (i.e. the periods vary – for example, it was seven working days in 2015, but only three working days in 2017).

**2.** The period has been extended recently in Scotland, in accordance with the recommendations of the Commission on Scottish Devolution (the Calman Commission). The UK Government’s 2010 Command Paper, *Strengthening Scotland’s future*, stated that the Calman Commission had concluded:

“that the current drafting of section 19(1) of the Scotland Act 1998 caused some practical difficulties following the 2007 Holyrood election, when the close result made the main political parties reluctant at first to allow one of their members to take on the non-voting role of Presiding Officer.

Whilst the Parliament was able to work around the restriction imposed in section 19(1), the Commission recommended that there should be a period of 14 days for the Parliament to elect a Presiding Officer after MSPs have taken their oaths.

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The [UK] Government agrees that it is important there is sufficient time for political parties to conduct any negotiations necessary to form a Government.”<sup>248</sup>

**3.** Following endorsement of the recommendation by the Scottish Parliament’s Standards, Procedures and Public Appointments Committee in September 2010,<sup>249</sup> the *Scotland Act 2012* amended the *Scotland Act 1998*, relaxing the requirement for the Scottish Parliament to elect a Presiding Officer and Deputy Presiding Officer(s) from 7 to 14 days.

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<sup>248</sup> UK Government, *Strengthening Scotland’s future*, Cm 7973, November 2010, p.48.

<sup>249</sup> Scottish Parliament Standards, Procedures and Public Appointments Committee, *The recommendations of the Commission on Scottish Devolution regarding Scottish Parliament procedures*, 24 September 2010, paragraphs 110-2.

## Annex 8: Index of Standing Order 26.6 requirements

Standing Order 26.6 makes provision for the information required to be included in the Explanatory Memorandum which accompanies any Bill on introduction.

| Standing Order | Section of EM   | Section / Chapter Heading     | Reference           |
|----------------|---|-------------------------------|---------------------|
| 26.6(i)        | Statement that the provisions in the Bill would be within the legislative competence of the Assembly  | Member's Declaration          | Page 4              |
| 26.6(ii)       | Set out the policy objectives of the Bill   | Context and need for the Bill | Chapter 3, page 15  |
|                |   | What the Bill does            | Chapter 4, page 34  |
| 26.6(iii)      | Set out whether alternative ways of achieving the policy objectives were considered and, if so, why the approach taken in the Bill was adopted  | What the Bill does            | Chapter 4, page 34  |
|                |   | Options, costs and benefits   | Chapter 8, page 100 |
| 26.6(iv)       | Set out the consultation, if any, which was undertaken on:<br>The policy objectives of the Bill and the ways of meeting them;<br>The detail of the Bill; and<br>A draft Bill, either in full or in part (and if in part, which parts) | Consultation                  | Chapter 5, page 69  |
| 26.6(v)        | Set out a summary of the outcome of that consultation, including how and why any draft Bill has been amended  | Consultation                  | Chapter 5, page 69  |

| <b>Standing Order</b> | <b>Section of EM</b>   | <b>Section / Chapter Heading</b>  | <b>Reference</b>  |
|-----------------------|--|---|---|
| 26.6(vi)              | If the Bill, or part of the Bill, was not previously published as a draft, the reason for that decision  | Context and need for the Bill   | Chapter 3, page 15  |
| 26.6(vii)             | Summarise objectively what each of the provisions of the Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Bill   | What the Bill does<br><br>Options, costs and benefits<br><br>Explanatory notes          | Chapter 4, page 34<br><br>Chapter 8, page 100<br><br>Part 4, page 271 |
| 26.6(viii)            | Set out the best estimates of:<br><br>The gross administrative, compliance and other costs to which the provisions of the Bill would give rise;<br><br>The administrative savings arising from the Bill;<br><br>Net administrative costs of the Bill's provisions;<br><br>The timescales over which all such costs and savings would be expected to arise; and<br><br>On whom the costs would fall | Options, costs and benefits   | Chapter 8, page 100   |
| 26.6(ix)              | Any environmental and social benefits and disbenefits arising from the Bill that cannot be quantified financially  | Environmental and social benefits and disbenefits that cannot be quantified financially | Chapter 25, page 269  |
| 26.6(x)               | Where the Bill contains any provision conferring power to make subordinate legislation, set out, in relation to each provision:  | Power to make subordinate legislation   | Chapter 6, page 92  |

| Standing Order | Section of EM   | Section / Chapter Heading                 | Reference         |
|----------------|---|---|-------------------|
|                | <p>The person upon whom, or the body upon which, the power is conferred and the form in which the power is to be exercised;</p> <p>Why it is considered appropriate to delegate the power; and</p> <p>The Assembly procedure (if any) to which the subordinate legislation made or to be made in the exercise of the power is to be subject, and why it was considered appropriate to make it subject to that procedure (and not to make it subject to any other procedure)</p> |   |                   |
| 26.6(xi)       | <p>Where the Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate.</p>  | Part 2: Regulatory Impact Assessment      | Paragraph 340     |
| 26.6A          | <p>The Explanatory Memorandum to the Bill must state precisely where each of the requirements of Standing Order 26.6 can be found within it, by means of an index or otherwise.</p>   | Index of Standing Order 26.6 requirements | Annex 8, page 311 |
| 26.6B          | <p>Where provisions of the Bill are derived from existing primary legislation, whether for the purposes of amendment or consolidation, the Explanatory Memorandum must be accompanied by a table of derivations that explain clearly how the Bill relates to the existing legal framework.</p>  | Annex 10: Table of derivations            | Page 371          |

| Standing Order | Section of EM   | Section / Chapter Heading                         | Reference |
|----------------|---|---|-----------|
| 26.6C          | Where the Bill proposes to significantly amend existing primary legislation, the Explanatory Memorandum must be accompanied by a schedule setting out the wording of existing legislation amended by the Bill, and setting out clearly how that wording is amended by the Bill. | Annex 9:<br>Schedule of amendments to legislation | Page 315  |

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## Annex 9: Schedule of amendments to legislation

This annex is intended to show how existing legislation will be amended by the Senedd and Elections (Wales) Bill as passed by the Assembly.

Material in existing legislation to be deleted by the Senedd and Elections (Wales) Bill is shown below in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Senedd and Elections (Wales) Bill is underlined, e.g. added material looks like this. All deletions and additions to existing legislation made by the Senedd and Elections (Wales) Bill are highlighted in red font.

This schedule of amendments has been prepared by officials of the National Assembly for Wales Commission. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the Act or the Bill. It has been produced solely to help the reader understand the effect of the Senedd and Elections (Wales) Bill. It is not intended for use in any other context.

The text that follows is in English only as the relevant existing legislation was made in English only.

Only those provisions that contain substantive changes are included. Consequential amendments arising from the name change provisions in sections 2 to 9 of the Bill are not included, other than in section 1 of the GOWA 2006.

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## The Government of Wales Act 2006

The new Schedule 1A to the 2006 Act (inserted by Schedule 2 to the Bill) is not included here as it is entirely new. Some of the provisions from which its contents are derived are explained in a separate schedule (see Annex 10). Annex 10 has not been updated following introduction of the Bill on 12 February 2019.

### PART 1

#### ~~NATIONAL ASSEMBLY FOR WALES~~ SENEDD CYMRU

#### ~~The Assembly~~ The Senedd

#### 1 The ~~Assembly~~ Senedd

(1) There is to be ~~an Assembly a parliament~~ for Wales to be known as the Senedd Cymru or the Welsh Parliament (referred to in this Act as “the Senedd”) ~~National Assembly for Wales or Cynulliad Cenedlaethol Cymru (referred to in this Act as “the Assembly”)~~.

(2) The ~~Assembly~~ Senedd is to consist of—

(a) one member for each ~~Senedd~~ Assembly constituency (referred to in this Act as “~~Assembly constituency members~~ Senedd constituency member”), and

(b) members for each ~~Assembly~~ Senedd electoral region (referred to in this Act as “~~Assembly regional members~~ Senedd regional member”).

(2A) Members of the Senedd are to be known by that name or Aelodau o’r Senedd.

(3) Members of the ~~Assembly~~ Senedd (referred to in this Act as “~~Assembly members~~”) are to be returned in accordance with the provision made by and under this Act for—

(a) the holding of general elections of ~~Assembly~~ Members of the Senedd (for the return of the entire ~~Assembly~~ Senedd), and

(b) the filling of vacancies in ~~Assembly~~ Senedd seats.

(4) The validity of any ~~Assembly~~ Senedd proceedings is not affected by any vacancy in its membership.

(5) In this Act “~~Assembly~~ Senedd proceedings” means any proceedings of—

- 
- (a) the AssemblySenedd,
  - (b) committees of the AssemblySenedd, or
  - (c) sub-committees of such committees.

### 3 Ordinary general elections

(1) The poll at an ordinary general election is to be held on the first Thursday in May in the fifth calendar year following that in which the previous ordinary general election was held, unless—

- (a) subsection (1A) prevents the poll being held on that day, or
- (b) the day of the poll is determined by a proclamation under section 4.

(1A) The poll is not to be held on the same date as the date of the poll at—

- (a) a parliamentary general election (other than an early parliamentary general election), or
- (b) a European Parliamentary general election.

(1B) Where subsection (1A) prevents the poll being held on the day specified in subsection (1), the poll is to be held on such day, subject to subsection (1A), as the Welsh Ministers may by order specify unless the day of the poll is determined by a proclamation under section 4(2) as modified by section 4(2A).

(2) If the poll is to be held on the first Thursday in May or on the day specified by an order under subsection (1B), the Assembly<sup>250</sup>—

- (a) is dissolved by virtue of this section at the beginning of the minimum period which ends with that day, and
- (b) must meet within the period of sevenfourteen days beginning immediately after the day of the poll.

(3) In subsection (2) “the minimum period” means the period determined in accordance with an order under section 13.

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<sup>250</sup> As previously noted, the Senedd and Elections (Wales) Bill replaces the word “Assembly” with “Senedd” here and in all following sections of the Government of Wales Act 2006, including its use in Assembly-related names and titles (e.g. Assembly Member). However, such changes are not shown in this section and all following sections of this schedule of amendments to legislation. The rationale for this approach is to highlight the more substantive changes to the wording of the Government of Wales Act 2006 made by the Bill.

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(4) In calculating any period of days for the purposes of subsection (2)(b), the following days are to be disregarded—

(a) Saturday and Sunday,

(b) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and

(c) any day appointed for public thanksgiving or mourning.

(5) No order is to be made under subsection (1B) unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the Assembly.

#### **4 Power to vary date of ordinary general election**

(1) Subject to section 3(1A), the Presiding Officer may propose, for the holding of the poll at an ordinary general election, a day which is not more than one month earlier, nor more than one month later, than the first Thursday in May.

(2) If the Presiding Officer proposes a day under subsection (1), Her Majesty may by proclamation under the Welsh Seal—

(a) dissolve the Assembly,

(b) require the poll at the election to be held on the day proposed, and

(c) require the Assembly to meet within the period of ~~seven~~ fourteen days beginning immediately after the day of the poll.

(2A) Where a day is specified by an order under section 3(1B), subsection (1) applies as if the reference to the first Thursday in May were a reference to that day.

(3) In calculating any period of days for the purposes of provision made by virtue of subsection (2)(c), the following days are to be disregarded—

(a) Saturday and Sunday,

(b) Good Friday,

(c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and

(d) any day appointed for public thanksgiving or mourning.

(4) The Welsh Ministers may by order make provision for—

- 
- (a) any provision of, or made under, the Representation of the People Acts, or
- (b) any other enactment relating to the election of Assembly members,

to have effect with such modifications or exceptions as the Welsh Ministers consider appropriate in connection with the alteration of the day of the poll under this section.

(6) A statutory instrument containing an order under this section is subject to annulment in pursuance of a resolution of the Assembly

## 5 Extraordinary general elections

(1) The Presiding Officer must propose a day for the holding of a poll at an extraordinary general election if subsection (2) or (3) applies.

(2) This subsection applies if—

(a) the Assembly resolves that it should be dissolved, and

(b) the resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favour of it is not less than two-thirds of the total number of Assembly seats.

(3) This subsection applies if any period during which the Assembly is required under section 47 to nominate an Assembly member for appointment as the First Minister ends without such a nomination being made.

(4) If the Presiding Officer proposes a day under subsection (1), Her Majesty may by proclamation under the Welsh Seal—

(a) dissolve the Assembly and require an extraordinary general election to be held,

(b) require the poll at the election to be held on the day proposed, and

(c) require the Assembly to meet within the period of ~~seven~~fourteen days beginning immediately after the day of the poll.

(5) If a poll is held under this section within the period of six months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 4), that ordinary general election is not to be held.

(6) But subsection (5) does not affect the year in which the subsequent ordinary general election is to be held.

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(7) In calculating any period of days for the purposes of subsection (4)(c), the following days are to be disregarded—

(a) Saturday and Sunday,

(b) Christmas Eve, Christmas Day and Good Friday,

(c) any day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971 (c. 80), and

(d) any day appointed for public thanksgiving or mourning.

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## 12 Entitlement to vote

(1) The persons entitled to vote at an election of Assembly members (or of an Assembly member) in an Assembly constituency are those who on the day of the poll—

(a) would be entitled to vote as electors at a local government election in an electoral area wholly or partly included in the Assembly constituency or fall within the extended franchise for Senedd elections as described in this section, and

(b) are registered in the register of local government electors at an address within the Assembly constituency.

(1A) A person falls within the extended franchise for Senedd elections if the person –

(a) has attained the age of 16, but not the age of 18, and

(b) would , but for any disability removed by this section be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.

(1B) A person falls within the extended franchise for Senedd elections if the person –

(a) is a qualifying foreign citizen (within the meaning given by section 203 (1) of the Representation of the People Act 1983 (c.2)), and

(b) would, but for any disability removed by this section, be entitled to vote as an elector at a local government election in an electoral area wholly or partly included within the Senedd constituency.

(2) But a person is not entitled as an elector—

(a) to cast more than one constituency vote, or more than one electoral region vote, in the same Assembly constituency at any general election,

(b) to vote in more than one Assembly constituency at any general election, or

(c) to cast more than one vote in any election held under section 10.

## 16 Disqualification from being **Assembly member** a **Member of the Senedd**

(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—

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(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.

(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—

(za) is a member of the House of Commons (but see sections 17A and 17B),

(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

~~(a) is disqualified from being a member of the House of Commons under paragraphs (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 (c24) (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures),~~

~~(b) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members,~~

~~(c) holds the office of Auditor General,~~

~~(d) holds the office of Public Services Ombudsman for Wales, or~~

~~(e) is employed as a member of the staff of the Assembly.~~

(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).

~~(2) Subject to section 17(1) and (2), a person is also disqualified from being an Assembly member if that person is disqualified otherwise than under the House of Commons Disqualification Act 1975 (c. 24) (either generally or in relation to a particular constituency) from being a member of the House of Commons or from sitting and voting in it.~~

~~(3) For the purposes of subsection (2) the references to the Republic of Ireland in section 1 of the Representation of the People Act 1981 (c. 34) (disqualification of offenders detained in, or unlawfully at large from detention in, the British Islands or the Republic of Ireland) are to be treated as references to any member State (other than the United Kingdom).~~

~~(4) A person who holds office as lord lieutenant, lieutenant or high sheriff of any area in Wales is disqualified from being an Assembly member for any Assembly constituency or Assembly electoral region wholly or partly included in that area.~~

- 
- (5) An Order in Council under paragraph (b) of subsection (1)–
- (a) may designate particular offices or offices of any description, and
  - (b) may designate an office by reference to any characteristic of a person holding it, and ~~in that paragraph and this subsection~~ for the purposes of this section “office” includes any post or employment.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under subsection (1)(b) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the Assembly.

## **17 ~~Exceptions and relief from disqualification~~ Relief**

- ~~(1) A person is not disqualified from being an Assembly member merely because that person is–~~
- ~~(a) a peer (whether of the United Kingdom, Great Britain, England or Scotland), or~~
  - ~~(b) a Lord Spiritual.~~
- ~~(2) A citizen of the European Union who is resident in the United Kingdom is not disqualified from being an Assembly member merely because of section 3 of the Act of Settlement (1700 c.2) (disqualification of certain persons born outside United Kingdom).~~
- (3) The Assembly may resolve that the disqualification of any person who was, or is alleged to have been, disqualified from being an Assembly member on a ground within section 16(1) ~~or (4)~~ is to be disregarded if it appears to the Assembly–
- (a) that the ground has been removed, and
  - (b) that it is proper so to resolve.
- (4) A resolution under subsection (3) does not–
- (a) affect any proceedings under Part 3 of the Representation of the People Act 1983 (c. 2) as applied by or incorporated in an order under section 13, or
  - (b) enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 19.

## **17B.— Exception from disqualification by virtue of being an MP: general election of Assembly members within 372 days**

- (1) This section applies if–
- (a) an Assembly member is returned as a member of the House of Commons, and

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(b) the expected day of the next general election of Assembly members 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)(za) (disqualification by virtue of being an MP) 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 Assembly members.

(3) For the purposes of subsection (1)(b) the expected day of the next general election of Assembly members is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).

(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).

(4) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—

(a) if ~~an Order in Council under section 5(4) has been made~~ 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 ~~Order~~ proclamation;

(b) if no ~~Order in Council under section 5(4) has been made~~ 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).

(5) For the purpose of determining the expected day, no account is to be taken of the possibility of—

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(a) an order under Section 4 (power to vary date of ordinary general election) being made 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.

(6) References in this section to the “day” of the election are to the day on which the poll at the election is held.

### **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.

### **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

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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

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(b) section 5(2) or (3) (extraordinary general elections) first applying after that time.

## 18 Effect of disqualification

(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.

(1) If a person who is disqualified from being an Assembly member is returned as an Assembly member, the person's return is void and the person's seat is vacant.

~~(2) If a person who is disqualified from being an Assembly member for a particular Assembly constituency or Assembly electoral region is returned as an Assembly member for that Assembly constituency or Assembly electoral region, the person's return is void and the person's seat is vacant.~~

(3) If a person who is an Assembly member becomes disqualified—

(a) from being an Assembly member, ~~or~~

~~(b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person is sitting,~~

the person ceases to be an Assembly member (so that the person's seat is vacant).

(4) Subsections (1) to (3) have effect subject to any resolution of the Assembly under section 17(3).

(5) In addition, subsection (3) has effect subject to—

(b) section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).

(6) If, in consequence of the provision mentioned in subsection (5), the seat of a person who is disqualified from being an Assembly member is not vacant, the person does not cease to be an Assembly member until the person's seat becomes vacant.

(7) But for any period for which the person is disqualified but the person's seat is not vacant—

(a) the person must not participate in any Assembly proceedings, and

(b) any of the person's other rights and privileges as an Assembly member may be withdrawn by the Assembly.

(8) The validity of any Assembly proceedings is not affected by the disqualification of any person—

(a) from being an Assembly member, ~~or~~

~~(b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit.~~

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## 19 Judicial proceedings as to disqualification

(1) Any person who claims that a person purporting to be an Assembly member is, or at any time since being returned as an Assembly member has been, disqualified from being—

(a) an Assembly member, ~~or~~

~~(b) an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit,~~

may apply to the High Court for a declaration to that effect.

(2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was returned or to have arisen subsequently.

(3) No declaration may be made under this section in respect of any person—

(a) on grounds which subsisted when the person was returned, if an election petition is pending or has been tried in which the person's disqualification on those grounds is or was in issue, or

(b) on any ground, if a resolution of the Assembly under section 17(3) requires that any disqualification incurred by the person on that ground is to be disregarded.

(4) On an application under this section—

(a) the person in respect of whom the application is made is to be the respondent, and

(b) the applicant must give such security for the costs of the proceedings as the court may direct.

(5) The amount of the security may not exceed £5,000 or such other sum as the Welsh Ministers may specify by order.

(6) The decision of the court on an application under this section is final.

(7) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the Assembly.

## SCHEDULE 2

### ASSEMBLY COMMISSION

#### Powers

4 (1) The Assembly Commission may do anything which appears to it necessary or appropriate for the purpose of, or in connection with, the discharge of its functions.

(2) That includes, in particular—

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- (a) entering into contracts,
  - (b) charging for goods or services,
  - (c) investing sums not immediately required for the discharge of its functions, and
  - (d) accepting gifts.

(3) Where (by will or otherwise) any property is (by whatever words used) expressed to be given to the Assembly, the gift takes effect as a gift to the Assembly Commission.

~~(4) The Assembly Commission may—~~

~~—(a) sell goods or provide services to the public, or~~

~~(b) make arrangements for the sale of goods or the provision of services to the public.~~

(4) The Senedd Commission may—

(a) provide goods or services to the public, or

(b) make arrangements for the provision of goods or services to the public.

(4a) The Senedd Commission may charge for goods or services provided under sub-paragraph (4).

(5) The Assembly Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet expenditure.

(6) The Assembly Commission—

(a) may not borrow money otherwise than under sub-paragraph (5), and

(b) may borrow under that sub-paragraph only in accordance with special or general directions given by the Assembly to the Assembly Commission under section 27(6).

(7) The Secretary of State may by order provide that the Local Government (Contracts) Act 1997 (c. 65) applies in relation to contracts entered into by the Assembly Commission but subject to any appropriate modifications.

(8) A statutory instrument containing an order under sub-paragraph (7) is subject to annulment in pursuance of a resolution of either House of Parliament.

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## The Representation of the People Act 1983

Provisions in this Act that only apply in relation to Scotland have been omitted for the sake of clarity. Amendments to Schedule 4A (introduced by paragraph 1 of Schedule 2) are not included as new paragraph 14A is entirely new.

### **4 Entitlement to be registered as parliamentary or local government elector**

(1) A person is entitled to be registered in the register of parliamentary electors for any constituency or part of a constituency if on the relevant date he—

- (a) is resident in the constituency or that part of it;
- (b) is not subject to any legal incapacity to vote (age apart);
- (c) is either a qualifying Commonwealth citizen or a citizen of the Republic of Ireland; and
- (d) is of voting age.

(2) . . .

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

- (a) is resident in that area;
- (b) is not subject to any legal incapacity to vote (age apart);
- (c) is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union; and
- (d) is of voting age or, if resident in an area in Wales, is 16 years of age or older.

(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.

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(4) The preceding provisions have effect—

(a) subject to—

(i) any enactment imposing a disqualification for registration as a parliamentary, or (as the case may be) local government, elector; and

(ii) compliance with any prescribed requirements; and

(b) (as respects registration as a parliamentary elector) without prejudice to section 2(1) of the Representation of the People Act 1985 (registration of British citizens overseas).

(5) A person otherwise qualified is (despite subsection (1)(d) or (3)(d), as the case may be) entitled to be registered in a register of parliamentary electors or local government electors if he will attain voting age before the end of the period of 12 months beginning with the 1st December next following the relevant date, but—

(a) his entry in the register shall give the date on which he will attain that age; and

(b) until the date given in the entry he shall not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date.

(5A) If a person entitled to be registered by virtue of subsection (5) above has an anonymous entry in the register, the references in paragraphs (a) and (b) of that subsection to his entry in the register are to be read as references to his entry in the record of anonymous entries prepared in pursuance of paragraph 8A of Schedule 2 below.

(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”.

(6) In this section—

“qualifying Commonwealth citizen” means a Commonwealth citizen who either—

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

(b) 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;

“the relevant date”, in relation to a person, means—

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(a) the date on which an application for registration is made (or, by virtue of section 10A(2) below, is treated as having been made) by him;

(b) in the case of a person applying for registration in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

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## **7B Notional residence: declarations of local connection**

(1) A declaration under this section (“a declaration of local connection”)—

(a) may be made only by a person to whom this section applies, but

(b) may be made by such a person despite the fact that by reason of his age he is not entitled to vote.

(2) This section applies to any person who on the date when he makes such a declaration is—

(a) a person to whom section 7 above applies and who would not be entitled to be registered by virtue of residence at any place other than the mental hospital (within the meaning of that section) at which he is a patient, or

(b) a person to whom section 7A applies and who would not be entitled to be registered by virtue of residence at any place other than the place at which he is detained as mentioned in subsection (1) of that section, or

(c) a person who does not fall within paragraph (a) or (b) above (and is not otherwise in legal custody) and who is not, for the purposes of section 4 above, resident at any address in the United Kingdom (a “homeless person”).

(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 to be exercisable by statutory instrument and is subject to annulment in pursuance of a resolution of the Senedd.

(2D) In subsection (2B)—

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(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) A declaration of local connection shall state—

(a) the name of the declarant and either—

(i) an address to which correspondence for him from either the registration officer concerned or the returning officer can be delivered, or

(ii) that he is willing to collect such correspondence periodically from the registration officer’s office;

(b) the date of the declaration;

(c) that on the date of the declaration the declarant falls into one of the categories of persons to whom this section applies, specifying—

(i) the category in question, and

(ii) (in the case of a person falling within subsection (2)(a) or (b) above) the name and address of the mental hospital at which he is a patient or (as the case may be) of the place at which he is detained;

(d) the required address (as defined by subsection (4) below);

(e) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland or (if the declaration is made for the purposes only of local government elections) a relevant citizen of the Union or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen;

(f) whether the declarant has on the date of the declaration attained the age of 18 years, and, if he has not, the date of his birth.

(4) For the purposes of this section “the required address” is—

(a) in the case of a person falling within subsection (2)(a) or (b) above—

(i) the address in the United Kingdom where he would be residing if he were not such a patient, or detained, as mentioned in that provision, or

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(ii) if he cannot give such an address, an address in the United Kingdom at which he has resided;

(b) in the case of a homeless person, the address of, or which is nearest to, a place in the United Kingdom where he commonly spends a substantial part of his time (whether during the day or at night);

(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) [...]

(6) Where a declaration of local connection made by a homeless person is delivered to the registration officer concerned during the period—

(a) beginning with the date when a vacancy occurs—

(i) in the seat for the parliamentary constituency within which the required address falls, or

(ii) in the seat for any Scottish Parliament constituency or National Assembly for Wales constituency within which it falls, and

(b) ending on the final nomination day (within the meaning of section 13B below) for the parliamentary by-election, or (as the case may be) the election under section 9 of the Scotland Act 1998 or [section 10 of the Government of Wales Act 2006], held in respect of that vacancy,

the declaration must state that, during the period of three months ending on the date of the declaration, the declarant has commonly been spending a substantial part of his time (whether during the day or at night) at, or near, the required address.

(7) No declaration of local connection shall be specially made by a person for the purposes of local government elections, and any such declaration made for the purposes of parliamentary elections shall have effect also for the purposes of local government elections; but—

(a) a declaration of local connection may be made for the purposes only of local government elections by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections or by a relevant citizen of the Union; and

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(b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as other declarations of local connection.

(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."

(8) If a person—

(a) makes a declaration of local connection stating more than one address under subsection (3)(d) above, or

(b) makes more than one declaration of local connection bearing the same date and stating different addresses under that provision,

the declaration or declarations shall be void.

(9) A declaration of local connection may be cancelled at any time by the declarant.

(10) A declaration of local connection shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the date of the declaration.

## **9 Registers of electors**

(1) Each registration officer shall maintain—

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(a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and

(b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts.

(2) Subject to any other provision of this Act, each register shall contain—

(a) the names of persons who appear to the registration officer to be entitled to be registered in it and in respect of whom a successful application for registration has been made;

(b) (subject to any prescribed exceptions) the qualifying addresses of the persons registered in it; and

(c) in relation to each such person, that person's electoral number.

(3) A person's electoral number is such number (with or without any letters) as is for the time being allocated by the registration officer to that person as his electoral number for the purposes of the register in question.

(4) Electoral numbers shall be allocated by a registration officer in such a way as to ensure, so far as is reasonably practicable, that in each separate part of a register the numbers run consecutively.

(5) The registers of parliamentary electors and of local government electors shall so far as practicable be combined, the entries of persons registered only as parliamentary electors or local government electors being marked to indicate that fact.

(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 register 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.

(6) [...]

(7) Where under this section two or more registration officers maintain registers of parliamentary electors in respect of different parts of the same constituency, then in

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relation to that constituency any reference in this Act (whether express or implied) to the register of parliamentary electors for a constituency shall be read—

(a) as a reference to one of those registers, or

(b) in relation to one of those registration officers, as the register maintained by him, as the context may require.

(8) In this Act—

(a) any reference, in relation to a registration officer, to “his” registers is a reference to the registers maintained by him under this section; and

(b) “qualifying address”, in relation to a person registered in a register of electors, is the address in respect of which he is entitled to be so registered.

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## **9A Registration officers: duty to take necessary steps**

(1) Each registration officer must take all steps that are necessary for the purpose of complying with his duty to maintain the registers under section 9 above and for the purpose of securing that, so far as is reasonably practicable, persons who are entitled to be registered in a register (and no others) are registered in it.

(2) The steps include—

(a) sending more than once to any address the form to be used for the canvass under section 9D below;

(b) making on one or more occasions house to house inquiries under subsection (5) of that section;

(c) making contact by such other means as the registration officer thinks appropriate with persons who do not have an entry in a register;

(d) inspecting any records held by any person which he is permitted to inspect under or by virtue of any enactment or rule of law;

(e) providing training to persons under his direction or control in connection with the carrying out of the duty.

(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 inquiries in relation to any person under the age of 16.

(3) Regulations made by the Secretary of State may amend subsection (2) by—

(a) varying any of the paragraphs in that subsection;

(b) inserting any paragraph;

(c) repealing any paragraph.

## **9E Maintenance of registers: invitations to register in Great Britain**

(1) A registration officer in Great Britain must give a person an invitation to apply for registration in a register maintained by the officer if—

(a) the officer is aware of the person's name and address,

(b) the person is not registered in the register, and

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(c) the officer has reason to believe that the person may be entitled to be registered in the register.

(2) Regulations may make provision about invitations under subsection (1), including—

(a) provision about the form and contents of invitations;

(b) provision about the giving of invitations (for example, provision about the manner in which they must be given or how often they must be given);

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

(3) Regulations under subsection (2) may confer functions on the Electoral Commission (for example, the Commission may be required to design an invitation).

(4) A registration officer who gives a person an invitation under subsection (1) may subsequently require the person to make an application for registration by a specified date.

(5) A requirement under subsection (4) is of no effect if the person is not entitled to be registered.

(6) Regulations—

(a) may make provision about requirements under subsection (4) (including provision for them to be cancelled in specified circumstances);

(b) may specify steps that a registration officer must take before imposing a requirement.

(7) A registration officer may impose a civil penalty on a person who fails to comply with a requirement imposed by the officer under subsection (4).

(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.

(8) For more about civil penalties under this section, see Schedule ZA1.

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## 14 Service qualification

(1) A person has a service qualification for the purposes of this Act who—

(a) is a member of the forces,

(b) (not being such a member) is employed in the service of the Crown in a post outside the United Kingdom of any prescribed class or description,

(c) is employed by the British Council in a post outside the United Kingdom,

(d) is the spouse or civil partner] of a member of the forces,

(e) is the spouse or civil partner of a person mentioned in paragraph (b) or paragraph (c) above and is residing outside the United Kingdom to be with his or her spouse or civil partner,

and where a person leaves the United Kingdom to take up employment or residence as mentioned above or returns to the United Kingdom at the end of such employment or residence, the employment or residence shall be deemed to begin from the time of leaving or to continue until the time of returning, as the case may be.

(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.

(2) [...]

## 15 Service declaration

(1) A service declaration shall be made only—

(a) by a person who has a service qualification, or

(b) subject to any prescribed conditions, by a person about to leave the United Kingdom in such circumstances as to acquire a service qualification,

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and a service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to vote.

(2) Where a person is registered in a register of electors in pursuance of a service declaration, the person is entitled to remain so registered until—

(a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,

(aa) the registration officer determines in accordance with regulations that the person was not entitled to be registered,

(ab) the registration officer determines in accordance with regulations that the person was registered as the result of an application under section 10ZC made by some other person or that the person's entry has been altered as the result of an application under section 10ZD made by some other person,

(b) the declaration is cancelled under subsection (7) below, or

(c) another entry made in respect of him in any register of electors takes effect (whether or not in pursuance of a service declaration),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of subsection (2) above, the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further service declaration.

(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.

(5) No service declaration shall be specially made by a person for the purpose of local government elections, and any service declaration made for the purpose of parliamentary elections shall have effect also for the purpose of local government elections; but—

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(a) a service declaration may be made for the purpose of local government elections only by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections, or by a relevant citizen of the Union; and

(b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as other service declarations.

(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) 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.

(6) If a person—

(a) makes a service declaration declaring to more than one address, or

(b) makes more than one service declaration bearing the same date and declaring to different addresses,

the declaration or declarations shall be void.

(7) A service declaration may at any time be cancelled by the declarant . . .

(8) A service declaration shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the date of the declaration.

(9) The Secretary of State may by order provide that, in relation to the persons mentioned in section 14(1)(a) and (d), subsection (2)(a) above has effect as if for the

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period of 12 months there were substituted such other period (not exceeding five years) as he thinks appropriate.

(10) The power to make an order under subsection (9) is exercisable by statutory instrument, which may contain such incidental or consequential provision as the Secretary of State thinks appropriate.

(11) No order may be made under subsection (9) unless—

(a) the Secretary of State first consults the Electoral Commission, and

(b) a draft of the instrument containing the order is laid before, and approved by a resolution of, each House of Parliament.

(12) If the period substituted by an order under subsection (9) is longer than the period for the time being in force, the longer period has effect in relation to any person who immediately before the order was made was entitled to remain in a register by virtue of subsection (2).

## **16 Contents of service declaration**

**(1)** A service declaration shall state—

(a) the date of the declaration,

(b) . . . that on that date the declarant is, or but for the circumstances entitling him to make the declaration would have been, residing in the United Kingdom,

(c) [...]

(d) the address where the declarant is or, as the case may be, . . . would have been residing in the United Kingdom or, if he cannot give any such address, an address at which he has resided in the United Kingdom,

(e) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland [or a relevant citizen of the Union or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen,

(f) whether the declarant had on the date of the declaration attained the age of 18 years, and, if he had not, the date of his birth, and

(g) such particulars (if any) as may be prescribed of the declarant's identity and service qualifications,

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and (except where the declarant is a member of the forces or the spouse or civil partner of such a member) shall be attested in the prescribed manner.

(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.

## **17 Effect of service declaration**

(1) Where a person's service declaration is in force when he applies for registration, he shall be regarded for the purposes of section 4 above as—

(a) resident on the date of the declaration at the address specified in it in accordance with section 16(d) above;

(b) . . . and

(c) until the contrary is proved, as being a Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union or (if the declaration is made for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.

(2) Where a service declaration appearing to be properly made out and (where required) attested is transmitted to the registration officer in the proper manner, the declarant shall, until the contrary is proved, be treated for the purposes of registration as having had from the date of the declaration or such later date, if any, as appears from it, and as continuing to have, a service qualification.

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

## **203 Local government provisions as to England and Wales**

(1) In this Act, unless the context otherwise requires, in relation to England and Wales—

.....

“qualifying foreign citizen” means a person who –

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(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.

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## National Assembly for Wales (Representation of the People) Order 2007 (the 2007 Order)

### 2 Interpretation

(1) In this Order, except where the context requires otherwise—

...

“qualifying Commonwealth citizen” means a Commonwealth citizen who is either—

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

(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) ~~indefinite leave to remain within the meaning of that Act~~ any description of such leave, but a person is not a qualifying Commonwealth citizen if he does not require leave to enter or remain in the United Kingdom by virtue only of Section 8 of the Immigration Act 1971 (exemptions to requirement for leave in special cases);

“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;

...

“valid postal voting statement” means a postal voting statement, which, in accordance with paragraph 23 of Schedule 3, the returning officer is satisfied has been duly completed; ~~and~~

“voter” means a person voting at an Assembly election and includes a person voting as proxy and, except in Schedule 5, a person voting by proxy, and “vote” (whether noun or verb) shall be construed accordingly, except that in that Schedule any reference to an elector voting or an elector’s vote shall include a reference to an

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elector voting by proxy or elector's vote given by proxy, and absent vote shall be construed accordingly;

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

## **11 Proxies at Assembly elections**

(1) Subject to the provisions of this article, any person is capable of being appointed proxy to vote for another (in this article and article 12 referred to as "the elector") at any Assembly election and may vote in pursuance of the appointment.

(2) The elector cannot have more than one person at a time appointed as proxy to vote for him at an Assembly election (whether in the same Assembly constituency or elsewhere).

(3) A person is not capable of being appointed to vote, or voting, as proxy at an Assembly election—

(a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector; or

(b) if he is neither a qualifying Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union nor a qualifying citizen.

(4) A person is not capable of voting as proxy at an Assembly election unless on the date of the poll he has attained the age of ~~eighteen~~16.

(5) A person is not entitled to vote as proxy—

(a) in the case of an Assembly general election in the same Assembly constituency, or constituencies in the same electoral region;

(b) in the case of a constituency election other than at an Assembly general election, in the same constituency election;

(c) in a regional election,

on behalf of more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at Assembly elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall make the appointment if the application meets the requirements set out in Schedule 1 and he is satisfied that the elector is or will be—

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(a) registered in the register; and

(b) shown in the record kept under article 8 as voting by proxy at such elections,

and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular Assembly election, the registration officer shall make the appointment if the application contains the signature and date of birth of the applicant and meets the requirements set out in Schedule 1 and he is satisfied that the elector is or will be—

(a) registered in the register for that election; and

(b) entitled to vote by proxy at that election by virtue of an application under article 9,

and that the proxy is capable of being, and willing to be, appointed.

(8) The appointment of a proxy under this article is to be made by means of a proxy paper issued by the registration officer.

(9) The appointment may be cancelled by the elector by giving notice to the registration officer and shall also cease to be in force on the issue of a proxy paper appointing a different person to vote for him at an Assembly election or Assembly elections (whether in the same Assembly constituency or elsewhere), and where the appointment was for a particular period, the appointment shall cease to be in force once that period expires.

(10) Subject to paragraph (9), the appointment shall remain in force—

(a) in the case of an appointment for a particular election, for that election; and

(b) in any other case, while the elector is shown as voting by proxy in the record kept under article 8 in pursuance of the same application under that article.

## **26 Effect of register**

(1) Any entry in the register of electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an Assembly election at which the date fixed for the poll is that or a later date.

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(2) A person registered as a local government elector, or entered in the list of proxies, shall not be excluded from voting at an Assembly election on any of the grounds set out in paragraph (3); but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

(3) The grounds referred to in paragraph (2) are—

(a) that he is not of voting age;

(b) that he is not, or on the relevant date or the date of his appointment (as the case may be), was not—

(i) a qualifying Commonwealth citizen;

(ia) a qualifying foreign citizen;

(ii) a citizen of the Republic of Ireland; or

(iii) a relevant citizen of the Union; or

(c) that he is or, on the relevant date or the date of his appointment (as the case may be) was, otherwise subject to any other legal incapacity to vote.

(4) In paragraph (3), the “relevant date” means—

(a) in relation to a person registered in the register as published in accordance with section 13(1) of the 1983 Act, the 15th October immediately preceding the date of publication of the register;

(b) in relation to any other person registered in the register, the relevant date for the purposes of section 4 of the 1983 Act.

(5) Paragraph (1) applies to an entry in the record of anonymous entries as it applies to an entry in the register of electors.

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## Representation of the People (England and Wales) Regulations 2001 ('the 2001 Regulations')

### 15 Contents of service declaration

(1) In addition to the matters specified in paragraphs (a) to (f) of section 16 of the 1983 Act, a service declaration shall state—

- (a) the declarant's full name and present address,
- (b) the grounds on which the declarant claims a service declaration, and
- (c) such of the particulars specified in paragraph (2), (3) or (4) below as are relevant to the service qualification claimed by the declarant.

(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).

(2) Where the declarant claims a service qualification on the grounds that he 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 service declaration shall state—

- (a) the service (whether naval, military or air forces) in which that member serves,
- (b) the rank or rating of that member, and
- (c) the service number of that member;

and where that member serves in the military forces, the service declaration shall in addition state the regiment or corps in which he serves.

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

- (a) the name of the Government department in which that servant works,
- (b) a description of the post of that servant, and
- (c) any staff number, payroll number or other similar identifying number of that servant.

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(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.

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

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

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

### **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

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(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.

## **24 Evidence as to age and nationality**

(1) Where a registration officer has doubts about a person's age or nationality, he may require that person to produce such evidence as is specified in paragraph (2) below for the purposes of registration.

(2) The evidence which the registration officer may require is as follows—

(a) a birth certificate . . . ;

(b) a certificate of naturalisation;

(c) where a person has made an overseas elector's declaration, further evidence of his status as a British citizen including a document showing that he has become a British citizen by virtue of registration;

(d) in any other case—

(i) a document showing that he has become a Commonwealth citizen by virtue of registration; or

(ii) a statutory declaration that he is a qualifying Commonwealth citizen or citizen of the Republic of Ireland or a relevant citizen of the Union or (for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen.

(3) If any fee is payable in connection with the making of a declaration for the purposes of this regulation, the registration officer shall pay that fee and it shall be treated as part of his registration expenses within the meaning of section 54(1) of the 1983 Act.

(4) Any such declaration shall be made available for inspection at the registration officer's office until the determination of the application for registration and of any objections duly made to it.

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(4A) Paragraph (4) does not apply where the declarant has, or has applied for, an anonymous entry.

(5) This regulation does not apply where an application for registration is made in pursuance of a service declaration.

(6) In this regulation “qualifying Commonwealth citizen” has the same meaning as in section 4 of the 1983 Act.

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## 25 Reminders to electors registered pursuant to a declaration

(1) This regulation applies in respect of a person registered in pursuance of—

- (a) a service declaration;
- (b) a declaration of local connection; and
- (c) an overseas elector's declaration.

(2) Subject to paragraph (4) below, the registration officer shall, during the relevant period, send to a person to whom this regulation applies a reminder of the need to make a fresh declaration if he wishes to remain registered as an elector in pursuance of such a declaration.

(3) In paragraph (2) “the relevant period” means—

(a) except in cases to which sub-paragraph (b) applies, the period beginning nine months after the date when the existing entry in a register of the person in question first takes effect and ending ten months after that date, and

(b) in the case of a person mentioned in section 14(1)(a) or (d) of the 1983 Act (members of the forces and their spouses or civil partners) who is registered in pursuance of a service declaration, the period beginning 57 months after the date when the existing entry in a register of the person in question first takes effect and ending 58 months after that date.

(3A) Subject to paragraph (4) below, the registration officer must send a second reminder not less than 21 nor more than 28 days after the date of the sending of the first reminder.

(4) Paragraphs (2) and (3A) above do not apply in respect of a person to whom this regulation applies where—

(a) the registration officer has already received from that person a fresh declaration, or

(b) information which the registration officer has received indicates that that person is no longer entitled to make the relevant declaration.

(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.

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(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.

## **26 Applications for registration**

(1) An application for registration as a parliamentary or local government elector (or both) under section 10ZC or an application for alteration in respect of address under section 10ZD of the 1983 Act ("an application") must be in writing and must state—

(a) the applicant's full name;

(b) except in the case of an application being made in pursuance of a service declaration or an overseas elector's declaration, the address in respect of which the applicant applies to be registered and at which they are resident on the date of the application;

(c) any address at which the applicant has ceased to reside within 12 months before the date of the application and, where that address is not in the United Kingdom, an indication of whether the person was registered in pursuance of an overseas elector's declaration during this period;

(d) an indication of whether the applicant is resident at any other address, including at any address in respect of which the applicant is currently registered as an elector and in respect of which the applicant claims to be entitled to remain registered;

(e) the applicant's date of birth or, if they are not able to provide that information, the reason why they are not able to do so and a statement as to whether the applicant is under 18 years old or aged 76 or over;

(f) the applicant's national insurance number or, if they are not able to provide that information, the reason why they are not able to do so;

(g) except in the case of a person applying to be registered in pursuance of an overseas elector's declaration, the applicant's nationality or nationalities or, if they are not able to provide that information, the reason why they are not able to do so;

(h) an indication of whether the applicant requests that their name and address are omitted from the edited version of the register;

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(i) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact;

(j) a declaration by the applicant that the information provided in the application is true; and

(k) the date of the application.

(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.

(2) In the case of a person applying to be registered as a parliamentary or local government elector (or both) in pursuance of a service declaration, a declaration of local connection or an overseas elector's declaration, an application under paragraph (1) must include the appropriate declaration.

(3) The Electoral Commission must design a paper application form which requires the information and declarations in paragraphs (1), (1A) and (2) and includes—

(a) a statement that the information provided in the application will be processed in accordance with the data protection legislation and as to what information will appear on the electoral register;

(b) a statement that persons without lawful immigration status are ineligible to register to vote, and that registration officers may request checks in relation to an applicant's immigration status against Home Office records;

(ba) a statement that persons who are not qualifying Commonwealth citizens, citizens of the Republic of Ireland or relevant citizens of the Union or (for the purposes only of the registration of local government electors in Wales) a qualifying foreign citizen are ineligible to register to vote and that, in relation to an applicant's nationality, registration officers may require the applicant to provide additional information or may carry out checks against Government records;

(c) a statement that it is an offence to provide false information to the registration officer, together with a statement of the maximum penalty for that offence;

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(ca) a statement that failure to provide an address at which the applicant has ceased to reside within 12 months before the date of the application or any other mandatory information required on the form may delay the registration process;

(d) space for a bar code, local authority reference number and security code unique to each form;

(e) space for the email address and telephone number or numbers of the applicant and an explanation that provision of this information is not mandatory;

(ea) space for the applicant to provide their most recent previous name (if they have one) and an explanation that provision of this information is not mandatory but may assist the registration officer in verifying the applicant's identity, and that if the information is not provided then additional personal information may be required;

(eb) space for the applicant to provide information as to whether the applicant is the only person aged 16 or over resident at the address in respect of which the application is made and an explanation that provision of this information is not mandatory;

(f) space for the registration officer to include local authority information and details of how the registration officer may be contacted;

(g) an indication of whether the applicant wishes to be able to cast an absent vote;

(h) an explanation of what the edited register is, using the short version of the form of words prescribed by regulation 45 of and Schedule 3 to the Representation of the People (England and Wales)(Description of Electoral Registers and Amendment) Regulations 2013; and

(i) the web site address of the digital service.

(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.

(4) The paper application form for persons applying to be registered in pursuance of a service declaration must—

(a) instead of the information required in paragraph (1)(b), request the applicant's correspondence address or British Forces Post Office Number;

(b) in the case of an application in pursuance of a service declaration on the grounds that the applicant is a member of the forces (within the meaning of section 59(1) of the 1983 Act) or the spouse or civil partner of a member of the forces (within the

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meaning of section 59(1) of the 1983 Act), also include a statement that the applicant must renew their application for registration every 5 years but may cancel it at any time;

(c) not include space for the information mentioned in paragraph (3)(eb).

(5) The paper application form for persons applying to be registered in pursuance of an overseas elector's declaration must—

(a) instead of the information required in paragraph (1)(b), request—

(i) the last address at which the applicant was registered as an elector; and

(ii) the address at which the applicant can be contacted; and

(b) not include space for the information mentioned in paragraph (3)(eb).

(5A) The paper application form for persons applying to be registered in pursuance of a declaration of local connection must not include space for the information mentioned in paragraph (3)(eb).

(6) The Electoral Commission must obtain the approval of the Minister for the Cabinet Office to the design of the application forms under paragraphs (3) to (5A) and must then make the forms available to registration officers.

(6A) Before giving approval under paragraph (6) in respect of the design of forms under paragraphs (3), (4) and (5A), the Minister must consult the Welsh Ministers.

(7) Where a registration officer gives a paper application form to a person resident in England or Wales, it must be accompanied by a pre-addressed reply envelope, return postage of which must be prepaid.

(8) A registration officer may authorise the applicant to provide the information required by paragraph (1) to the registration officer by telephone or in person and, where the officer does so, the registration officer must—

(a) provide the applicant with an explanation of what the edited register is, using the short version of the form of words prescribed by regulation 45 of and Schedule 3 to the Representation of the People (England and Wales)(Description of Electoral Registers and Amendment) Regulations 2013; and

(b) transfer the information provided by the applicant into an application in writing.

(9) Where, by virtue of arrangements made by the Minister for the Cabinet Office, an application under paragraph (1) may be made through the digital service, the Minister must request the applicant's email address and telephone number or

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numbers and provide an explanation of the purpose for which this information will be used.

(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.

(10) Where an application in pursuance of an overseas elector's declaration under paragraph (1) is made through the digital service, a registration officer may, but need not, accept it.

(11) The Minister for the Cabinet Office must send to the registration officer any application he receives together with—

(a) the applicant's email address and telephone numbers (if provided); and

(b) a reference number unique to that application.

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**26B Power to request additional evidence where certain information is unavailable or where the registration officer considers it necessary**

(1) This regulation applies where a registration officer considers additional evidence is necessary to verify the identity of a person or determine their entitlement to register in respect of their application under section 10ZC or 10ZD of the 1983 Act, including where that is necessary because the person is not able to state the information required by any of sub-paragraphs (e), (f) or (g) of regulation 26(1).

(2) The registration officer may require that the applicant give them a copy, or where the registration officer considers it appropriate, the original, of one of the following documents—

(a) the applicant's passport;

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

(c) the applicant's biometric immigration document issued in the United Kingdom in accordance with regulations made under section 5 of the Borders Act 2007;

(d) the applicant's electoral identity card issued in Northern Ireland; or

(e) the applicant's photocard driving licence granted in the United Kingdom or driving licence granted by a Crown Dependency, which bears a photograph of the applicant.

(3) Where an applicant is not able to give one of the documents in paragraph (2), the registration officer may require that the applicant give them a copy, or where the registration officer considers it appropriate, the original, of—

(a) one of the following documents, which, except in relation to paragraph (vii), must have been issued in the United Kingdom or Crown Dependencies—

(i) the applicant's birth certificate;

(ii) the applicant's marriage or civil partnership certificate;

(iii) the applicant's adoption certificate;

(iv) the applicant's firearms certificate granted under the Firearms Act 1968;

(v) the record of a decision on bail made in respect of the applicant in accordance with section 5(1) of the Bail Act 1976;

(vi) the applicant's driving licence, which is not in the form of a photocard; or

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(vii) the applicant's driving licence granted other than in the United Kingdom or Crown Dependencies, which bears a photograph of the applicant and which must be valid for at least 12 months from the date the applicant entered the United Kingdom; and

(b) two other documents, each of which may be either from sub-paragraph (a) or from paragraph (4).

(4) Where the applicant is not able to give documents in accordance with paragraph (3), the registration officer may require that the applicant give them a copy, or where the registration officer considers it appropriate, the original, of four documents, each of which may be any of the following kinds of evidence and which must bear the applicant's full name—

(a) a financial statement, including but not limited to—

(i) a mortgage statement;

(ii) a bank or building society statement or a letter from a bank or building society confirming that the applicant has opened an account with that bank or building society;

(iii) a credit card statement;

(iv) a pension statement;

(b) a council tax demand letter or statement;

(c) a utility bill;

(d) a Form P45 or Form P60 issued to the applicant by their employer or former employer;

(e) a statement of benefits or entitlement to benefits, such as a statement of child benefit, within the meaning of section 141 of the Social Security Contributions and Benefits Act 1992, or a letter confirming that the applicant is entitled to housing benefit, within the meaning of section 130 of that Act.

(5) If an applicant is unable to give the documentary evidence required under paragraphs (2) to (4), the registration officer may require that the applicant give an attestation as set out in paragraph (6).

(6) An attestation must—

(a) confirm that the applicant is the person named in the application;

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(b) state that the person signing the attestation is aware of the penalty for providing false information to a registration officer;

(c) be in writing and signed by a person—

(i) whom the registration officer is satisfied is of good standing in the community;

(ii) who is registered as an elector in a local authority area in England or Wales;

(iii) who is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the applicant; and

(iv) who has not already signed attestations under this regulation for two applicants since, whichever is the later,—

(aa) the date on which the revised register in which that person's name appears was last published under section 13(1) of the 1983 Act; or

(bb) the date on which a notice specifying that person's entry in the register was issued under (as the case may be) section 13A(2), 13AB(2), 13B or 13BC of that Act (and if there has been more than one such notice, the date on which the last one was issued);.

(d) state the full name, date of birth, address, electoral number and occupation of the person signing the attestation; and

(e) state the date on which it is made.

(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.

(7) Paragraphs (2) to (6A) do not apply where the application is made pursuant to the following declarations—

(a) a service declaration on the grounds that the applicant is a Crown servant (within the meaning of regulation 14) or the spouse or civil partner of a Crown servant (within the meaning of regulation 14);

(b) a service declaration on the grounds that the applicant is a member of the forces (within the meaning of section 59(1) of the 1983 Act);

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(c) a service declaration on the grounds that the applicant is the spouse or civil partner of a member of the forces (within the meaning of section 59(1) of the 1983 Act);

(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; or

(d) an overseas elector's declaration.

(8) In the case of an application in pursuance of a declaration within paragraph (7)(a) or (c), the registration officer may require that the applicant give them a copy, or where the registration officer considers it appropriate, the original, of one of the following documents, which has been certified by a Crown servant (within the meaning of regulation 14) or British Council employee or an officer of the forces (within the meaning of section 59(1) of the 1983 Act) who is not the applicant's spouse or civil partner—

(a) the applicant's passport; or

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

(9) In the case of an application in pursuance of a declaration within paragraph (7)(b), the registration officer may require that the applicant give an attestation which must—

(a) confirm that the applicant is the person named in the application;

(b) be in writing and signed by an officer of the forces (within the meaning of section 59(1) of the 1983 Act) who is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the applicant;

(c) state the full name, address and rank of the person signing the attestation and the service (whether naval, military or air forces) in which they serve; and

(d) state the date on which it is made.

(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.

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(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”.

(10) In the case of an application in pursuance of a declaration within paragraph (7)(d), the registration officer may require that the applicant give an attestation which must—

(a) confirm that the applicant is the person named in the application;

(b) be in writing and signed by a registered elector who is a British citizen living overseas and who is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the applicant;

(c) state the full name, address and occupation of the person signing the attestation;

(d) state the attestor’s British passport number together with its date and place of issue; and

(e) state the date on which it is made.

(11) Where a registration officer considers that additional evidence is necessary in order to determine whether the applicant is a qualifying Commonwealth citizen, the registration officer may require that the applicant provide evidence relating to the applicant’s immigration status, including, if applicable, the applicant’s biometric immigration document issued in the United Kingdom.

(12) In this regulation—

(a) “Crown Dependency” means the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man;

(b) “qualifying Commonwealth citizen” has the same meaning as in section 4 of the 1983 Act.

## **28 Inspection of applications and objections**

(1) An entry on the list of applications for registration kept under regulation 29(2)(a) and any objection to a person’s registration shall be made available for inspection at

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the registration officer's office until the application to which the entry relates or objection has been determined by the registration officer.

(2) This regulation does not apply to an application for registration which is accompanied by an application for an anonymous entry.

(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.

## **29ZA Verification of information provided in an application**

(1) On receipt of an application under section 10ZC or 10ZD of the 1983 Act made otherwise than through the digital service, a registration officer must disclose the name or names, date of birth and national insurance number given under regulation 26 or 26A to the Minister for the Cabinet Office in such a format and through such a conduit system as the Minister for the Cabinet Office may have notified to the registration officer in writing.

(2) Following receipt of the information from the registration officer or (in the case of an application made through the digital service) from the applicant, the Minister for the Cabinet Office may disclose the information to the Secretary of State.

(3) Where information has been disclosed to the Secretary of State under paragraph (2), the Secretary of State may compare it against—

(a) the name, date of birth and national insurance number of individuals appearing in the following types of databases kept by the Secretary of State—

(i) databases kept for the purposes of functions relating to social security (including such information kept on behalf of the Department for Social Development); and

(ii) databases relating to working tax credit, child tax credit and child benefit (being information kept on behalf of Her Majesty's Revenue and Customs); and

(b) any other information contained in those databases which relates to the information disclosed under paragraph (2).

(4) The Secretary of State may disclose the results of the comparison to the Minister for the Cabinet Office.

(5) On receipt of such results, the Minister for the Cabinet Office may disclose them to the registration officer in whose register the applicant has applied to be registered.

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(6) Where the Minister for the Cabinet Office does so, the registration officer must take the results into account in determining the application.

(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.

(7) In this regulation—

(a) “conduit system” has the same meaning as in paragraph 1 of Schedule 2 to the Telecommunications Act 1984;

(b) “the Secretary of State” means the Secretary of State for the Department for Work and Pensions.

### **31D Procedure for reviewing entitlement to registration**

(1) A registration officer must, for the purposes of making a determination of the nature specified in regulation 31B(2), conduct a review in respect of a person entered in the register.

(2) Where the registration officer is not satisfied that the subject of the review is entitled to be registered, he must—

(a) send to that person such notice, of a kind specified in paragraph (4), as he considers appropriate, and

(b) enter the review in the list kept in pursuance of regulation 31E.

(3) Paragraph (2)(b) does not apply where the subject of a review has an anonymous entry.

(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.

(4) A notice is specified for the purposes of this paragraph if it—

(a) states that the registration officer is of the opinion that the subject of the review is or was not entitled to be registered, or has an entry in the register which results from or was altered as the result of an application made by another person, and the grounds for his opinion,

(b) states the reason for the review and requires the subject of the review to provide such further information as might be specified in the notice or requires him to make a declaration under regulation 24 or both, or

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(c) states the reason for the review and that the registration officer intends to conduct a hearing of it.

(4A) A notice specified for the purposes of paragraph (4)(a) must also state that—

(a) where the subject of the review does not notify the registration officer within 14 days beginning with the date of the notice that the subject of the review requires the review to be heard, the registration officer may determine the review and remove the subject's entry from the register;

(b) the subject of the review would not be entitled to a right of appeal against the registration officer's determination in the circumstances described in sub-paragraph (a); and

(c) after 14 days beginning with the date of the notice, the subject of the review can contact the registration officer to find out if the registration officer has removed the subject's entry from the register.

(5) Where—

(a) the registration officer sends to the subject of the review a notice in the form specified in paragraph (4)(a), and

(b) that person does not, within 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered, that the subject of the review was registered and their entry has been altered as the result of an application made by another person, or, as the case may be, that the subject of the review has ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.

(6) Paragraph (7) applies where—

(a) the registration officer sends to the subject of the review a notice in the form specified in paragraph (4)(b), and

(b) that person does not respond to the registration officer's satisfaction, or at all, within the period of 28 days beginning with the date of that notice.

(7) The registration officer may send a notice to the subject of the review which states that—

(a) the registration officer is not satisfied that the subject of the review is or was entitled to be registered, or that the subject's entry in the register does not result

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from or has not been altered as the result of an application made by another person, and the grounds for the registration officer's opinion;

(b) if within 14 days beginning with the date of the notice, the subject of the review does not require the review to be heard, the registration officer may determine the review and remove the subject's entry from the register;

(c) the subject of the review would not be entitled to a right of appeal against the registration officer's determination in the circumstances described in sub-paragraph (b); and

(d) after 14 days beginning with the date of the notice, the subject of the review can contact the registration officer to find out if the registration officer has removed the subject's entry from the register.

(8) Where—

(a) the registration officer sends to the subject of the review a notice in pursuance of paragraph (7), and

(b) the subject of the review does not, within the period of 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered, that the subject of the review was registered and their entry has been altered as the result of an application made by another person, or, as the case may be, that the subject of the review has ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.

(9) In making a determination under paragraph (5) or (8), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested.

(10) In this regulation and regulations 31E and 31F—

“review” must be construed in accordance with paragraph (1);

“the subject of the review” means the person in respect of whom the review is conducted.

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### **31E List of reviews**

- (1) The registration officer must keep a list of reviews.
- (2) The list must contain, in relation to each review, the following particulars—
  - (a) the full name of the subject of the review,
  - (b) his electoral number,
  - (c) his qualifying address, and
  - (d) the reason for the review.
- (3) The list must be made available for inspection at the registration officer's office.
- (4) This regulation does not apply to any review where the subject of the review has an anonymous entry.

(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.

### **31J Anonymous registration: evidence by attestation**

- (1) An attestation within the meaning of this regulation is prescribed for the purposes of regulations 31G(3) and 31H(2)(a).
- (2) The attestation must—
  - (a) certify that the safety of the applicant, or of another named person of the same household as him, would be at risk if the register contained the name of the applicant or his qualifying address,
  - (b) state the date on which it is made, and
  - (c) be in writing and signed by a qualifying officer.
- (3) The attestation must state the period for which it has effect, being a period of between one and five years beginning with the date on which the attestation is made.
- (4) Qualifying officer means—
  - (a) a police officer of or above the rank of inspector of any police force in England and Wales;

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- (b) a police officer of or above the rank of inspector of the Police Service of Scotland;
- (c) a police officer of or above the rank of inspector of the Police Service of Northern Ireland;
- (d) the Director General of the Security Service;
- (e) the Director General of the National Crime Agency;
- (f) any director of adult social services in England within the meaning of section 6(A1) of the Local Authority Social Services Act 1970;
- (g) any director of children’s services in England within the meaning of section 18 of the Children Act 2004;
- (h) any director of social services in Wales within the meaning of section 144 of the Social Services and Well-being (Wales) Act 2014;
- (i) any chief social work officer in Scotland within the meaning of section 3 of the Social Work (Scotland) Act 1968;
- (j) any director of social services of a Health and Social Services Board established under article 16 of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (k) any executive director of social work of a Health and Social Services Trust established under article 10 of the Health and Personal Social Services (Northern Ireland) Order 1991;
- (l) any registered medical practitioner;
- (m) any registered nurse or midwife;
- (n) any person who manages a refuge.

(5) In this regulation “refuge” means accommodation together with a planned programme of therapeutic and practical support for victims of, or those at risk of, domestic abuse or violence.

(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

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

### **32ZA Annual canvass**

(1) The annual canvass required by section 9D(1) of the 1983 Act must be conducted in accordance with the following paragraphs.

(2) The Electoral Commission must—

(a) design a canvass form;

(b) obtain the approval of the Minister for the Cabinet Office to the form; and

(c) then make the form available to registration officers.

(2A) Before giving the approval referred to in paragraph (2)(b), the Minister must consult the Welsh Ministers.

(3) The canvass form in paragraph (2) must—

(a) require the full name and nationality of each person aged 16 and over who is eligible to register and is residing at the address to which the form is given;

(b) require an indication as to whether—

(i) there is no one residing at the address;

(ii) the address is solely of business premises;

(iii) none of the people residing at the address is entitled to be registered by reason of their nationality, together with a statement of their nationalities;

(iv) none of the people residing at the address is entitled to be registered for any reason other than their nationality and a statement of why they are not so entitled;

(c) include space for a bar code, local authority reference number and security code unique to each form;

(d) include a statement that the occupier or (if there is no occupier or it is not reasonably practicable for the occupier to provide the required information) the person in charge of the premises, must provide the required information to the registration officer for the area which includes the address to which the form was delivered, and the manner in which they may do so;

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(e) include an explanation of the requirements for entitlement to register to vote and state that this form is not an application to register;

(f) include a statement that the information provided in response to the form will be processed in accordance with the data protection legislation;

(g) include a statement that failure to provide the information required by the canvass form to the registration officer may be an offence and a statement of the maximum penalty for that offence;

(h) include a statement that it is an offence to provide false information to the registration officer, and a statement of the maximum penalty for that offence;

(i) include a declaration that the information provided is true, to be made by a named person at the address to which the form is given and include an indication, if the person who is making the declaration is not resident at the address, of the capacity in which they are making it;

(j) include space for the email address and telephone number or numbers of each person residing at the address who is entitled to register to vote and an explanation that provision of this information is not mandatory;

(k) include space for the registration officer to provide local authority information and details of how the registration officer may be contacted;

(l) include the web site address of the digital service; and

(m) require the date of completion of the form.

(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.

(4) Subject to paragraphs (4A) and (4B), each registration officer must send a canvass form in the form designed by the Electoral Commission to each residential address in the area for which the officer acts and the canvass form must be accompanied by a pre-addressed reply envelope, the postage of which has been prepaid.

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(4A) Where, during the period beginning with 1st July in each year and ending with the date in that year on which the registration officer publishes a revised version of the register under section 13(1) of the 1983 Act,—

(a) the registration officer receives an application under section 10ZC or 10ZD of the 1983 Act;

(b) the application contains information provided by the applicant in accordance with regulation 26(3)(eb), which indicates that the applicant is the only person aged 16 or over resident at the address in respect of which the application has been made;

(c) the registration officer determines that the applicant is entitled to be registered in respect of that address;

the registration officer is not required (if the officer has not done so already) to send a canvass form to that address under paragraph (4) as part of the annual canvass for that year.

(4B) Where—

(a) the registration officer receives an application under section 10ZC or 10ZD of the 1983 Act outside the period specified in paragraph (4A);

(b) the application contains information provided by the applicant in accordance with regulation 26(3)(eb), which indicates that the applicant is the only person aged 16 or over resident at the address in respect of which the application has been made;

(c) the registration officer determines that the applicant is entitled to be registered in respect of that address;

the registration officer is not required to send a canvass form to that address under paragraph (4) as part of the next annual canvass the registration officer is required to conduct under section 9D of the 1983 Act.

(5) Before sending a canvass form under paragraph (4), the registration officer must, if practicable print on the form—

(a) any information required by the canvass form which the officer already holds in respect of each person who is registered at the address to which the canvass form is provided, with the exception of persons registered as mentioned in section 9D(6) of the 1983 Act; and

(b) an indication as to whether each person who is registered at that address is aged 76 or over.

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(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.

(6) Where the registration officer has printed on the canvass form information in accordance with paragraph (5) the registration officer must include on the canvass form—

(a) an explanation of what the edited register is, using the short version of the form of words, which is prescribed in regulation 45 of, and Schedule 3 to, the Representation of the People (England and Wales)(Description of Electoral Registers and Amendment) Regulations 2013;

(b) an indication of whether the name and address of each person, who is currently registered as an elector in respect of that address, are omitted from the edited register; and

(c) an indication that the person should contact their registration officer if they wish to request that their name and address be included in or omitted from the edited register, as the case may be, and an explanation that return of the canvass form will not constitute a request for the purpose of regulation 93A.

### **322C Invitations to apply for registration**

(1) The Electoral Commission must—

(a) design an invitation to apply for registration;

(b) obtain the approval of the Minister for the Cabinet Office to the invitation; and

(c) then make the invitation available to registration officers.

(1A) Before giving the approval referred to in paragraph (1)(b), the Minister must consult the Welsh Ministers.

(2) The invitation in paragraph (1) must include—

(a) the full name and address of the person to be invited;

(b) an explanation of how to make an application for registration;

(c) a statement as to the circumstances in which a civil penalty may be imposed under section 9E of the 1983 Act, and the amount of the civil penalty; and

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(d) the website address of the digital service.

(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) Where a registration officer is required by section 9E(1) of the 1983 Act to give a person an invitation to apply for registration—

(za) the registration officer must give the invitation either—

(i) by delivering it to the person, leaving it at the person's address or sending it to the person's address by post; or

(ii) by electronic means;

(a) the registration officer must give the invitation as soon as reasonably practicable and in any event within 28 days of the conditions in section 9E(1) being satisfied;

(b) the invitation must be in the form designed by the Electoral Commission under paragraph (1);

(c) the invitation must be accompanied by an application form in the form designed by the Electoral Commission under regulation 26(3), on which the registration officer has, if practicable, printed the full name and address of the person to be invited; and

(d) the invitation, the application form and a pre-addressed reply envelope, return postage of which has been prepaid, must be given in an envelope on which is printed—

(i) a direction requesting that the envelope is not redirected if it is incorrectly addressed; and

(ii) a direction requesting that any other person who receives the envelope who is resident at the address to which the invitation is addressed inform the registration officer if the addressee is not resident at that address and the registration officer's contact details in order that they may do so.

(3A) Paragraphs (3)(c) and (d) do not apply where the registration officer gives the invitation by electronic means in accordance with paragraph (3)(za)(ii).

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### **32ZD 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**

(1) If a registration officer has given a person an invitation to apply for registration under section 9E(1) of the 1983 Act and the person has not made an application to register within a reasonable time of receipt of the invitation, the registration officer must give the person a second invitation.

(2) If no application is received in respect of the second invitation within a reasonable time of receipt of the second invitation, the registration officer must give the person a third invitation.

(3) The registration officer may visit the address at which the first invitation was given in order to encourage the person to make an application for registration at any time and must make or have made one visit if no application has been received in response to the third invitation.

(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) The second and third invitations to apply for registration, if required, must be in the same form as the first invitation to apply for registration.

(5) Paragraphs (1) to (3) do not apply if the registration officer is satisfied that—

(a) the person is not entitled to be registered at the address at which the invitation or invitations to register was or were given; or

(b) the person is registered at a different address.

(6) Paragraphs (1) to (3) do not apply in relation to a person whom the registration officer has reason to believe would, if registered, be registered—

(a) in pursuance of an application made by virtue of section 7(2) or 7A(2) of the 1983 Act;

(b) in pursuance of a declaration of local connection, service declaration or overseas elector's declaration; or

(c) with an anonymous entry.

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### **32ZE Requiring a person to make an application for registration**

(1) Where a registration officer requires a person to make an application for registration by a specified date under section 9E(4) of the 1983 Act, the registration officer must give the person notice in writing of the requirement.

(2) A registration officer may not require a person to apply for registration unless—

(a) the registration officer has taken the last of the steps required by regulation 32ZD;

(b) the registration officer has established that the person—

(i) has received an invitation to apply for registration;

(ii) has been informed how to make an application for registration; and

(iii) has been informed that the registration officer may impose a civil penalty if the person is required to make an application but does not do so; and

(c) the registration officer has established that the person is resident at the address at which the invitations to apply for registration were given.

(3) A notice under paragraph (1) must state—

(a) the date by which the person must make an application for registration;

(b) that, if the person does not make an application by that date, the registration officer may impose a civil penalty on that person;

(c) the amount of any such civil penalty and the rate of interest payable if the penalty is not paid on time;

(d) that, if the person is not entitled to be registered, they must, before the date in sub-paragraph (a), inform the registration officer of that fact and explain why they are not so entitled, and the person is not required to make an application for registration;

(e) that, if the person is registered at another address, they must, before the date in sub-paragraph (a), inform the registration officer of that fact and provide that address, and the person is not required to make an application for registration;

(f) that the person may make other representations before the date in sub-paragraph (a) as to why they should not be required to make an application to register by the specified date, or why a civil penalty should not be imposed if they do not do so.

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(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.

(4) The registration officer must give with the notice an application form in the form designed by the Electoral Commission under regulation 26(3) on which the registration officer has, if practicable, printed the full name and address of the person.

(5) A registration officer must cancel a requirement to make an application for registration, and give the person concerned notice in writing of the cancellation, if—

(a) the registration officer is satisfied that the person is not entitled to be registered at the address at which the invitations to register were given; or

(b) the registration officer is satisfied that the person is registered at a different address; or

(c) any of the requirements in paragraph (2) has not been met.

(6) A registration officer may cancel a requirement to make an application for registration if the registration officer considers it appropriate to do so and must give the person concerned notice in writing of the cancellation.

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# The Political Parties Elections and Referendums Act 2000

## 6 Reviews of electoral and political matters.

(1) The Commissions shall keep under review, and from time to time submit reports to the Secretary of State on, the following matters, namely—

(a) such matters relating to elections to which this section applies as the Commission may determine from time to time;

(b) such matters relating to referendums to which this section applies as the Commission may so determine;

(c) the redistribution of seats at parliamentary elections;

(d) if any functions are transferred by an order under section 18 (1), 19 (1) or 20 (1), the matters in relation to which those functions are exercisable;

(e) the registration of political parties and the regulation of their income and expenditure;

(f) political advertising in the broadcast and other electronic media;

(g) the law relating to the matters mentioned in each of paragraphs (a) to (f).

(2) At the request of the Secretary of State, and within such time as the Secretary of State may specify, the Commission shall—

(a) review, and

(b) submit a report to the Secretary of State on,

such matter or matters (whether or not falling within subsection (1)) as the Secretary of State may specify.

(3) The Commission shall not, however, carry out any review (or make any report) under this section with respect to any of the following matters, namely—

(a) the funding of political parties under section 97 of the Scotland Act 1998 or for the purpose of assisting members of the Northern Ireland Assembly connected with such parties to perform their Assembly duties or the funding of political groups under section 24 of the Government of Wales Act 2006;

(b) the conduct of referendums held in pursuance of any provision made by or under an Act of the Scottish Parliament, [Senedd Cymru](#) or the Northern Ireland Assembly or the conduct of any poll under section 64 of the Government of Wales Act 2006;

(c) the law relating to the matters mentioned in each of paragraphs (a) and (b).

(4) Where any review carried out under this section relates to elections or referendums in Northern Ireland, the Commission shall consult the Chief Electoral Officer for Northern Ireland with respect to such elections or referendums.

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(5) Each report made by the Commission under this section shall be published by them in such manner as they may determine.

(6) The elections and referendums to which this section applies are—

(a) in the case of elections—

(i) the elections mentioned in section 5(2) other than those mentioned in paragraph (d) of that subsection,

(ii) local government elections in England ~~or Wales~~, and

(iii) local elections in Northern Ireland; and

(b) in the case of referendums, referendums to which Part VII applies ~~and those under Part II of the Local Government Act 2000~~.

### **6ZA Reviews of devolved electoral matters in Wales**

(1) The Commission must keep the matters mentioned in subsection (2) under review, and must from time to time submit reports on those matters to the Welsh Ministers.

(2) The matters are such matters as the Commission may from time to time determine relating to—

(a) general elections of Members of the Senedd;

(b) elections under section 10 of the Government of Wales Act

2006 (elections for Senedd constituency vacancies);

(c) local government elections in Wales;

(d) referendums under Part 2 of the Local Government Act 2000 and Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to executive arrangements of local

authorities in Wales);

(e) the law relating to the elections and referendums mentioned in paragraphs (a) to (d).

(3) Subsection (4) applies if the Welsh Ministers request the Commission to review and report on any matter or matters for which provision is or could be made in an Act of Senedd Cymru (whether or not falling within subsection (2)).

(4) The Commission must, within such time as the Welsh Ministers may specify—

(a) review the matters specified in the request, and

(b) submit a report on those matters to the Welsh Ministers.

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(5) The Commission must publish each report made under this section in such manner as the Commission may determine.

**6F Code of practice on attendance of observers at elections etc.**

- (1) The Commission must prepare a code of practice on the attendance of—
- (a) representatives of the Commission,
  - (b) accredited observers, and
  - (c) nominated members of accredited organisations,
- at elections specified in subsection (5) of section 6A, other than those specified in subsection (2) of section 6G, and referendums to which Part 7 applies.
- (2) The code must in particular—
- (a) specify the manner in which applications under sections 6C(1) and 6D(1) are to be made to the Commission;
  - (b) specify the criteria to be taken into account by the Commission in determining such applications;
  - (c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;
  - (d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;
  - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election or referendum as it relates to a person having such permission;
  - (f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.
- (3) The code may make different provision for different purposes.
- (4) Before preparing the code, the Commission must consult the Secretary of State.
- (5) The Commission must lay the code before each House of Parliament.
- (6) The Commission must publish the code (in such manner as the Commission may determine).
- (7) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E—
- (a) the Commission;
  - (b) representatives of the Commission;

- 
- (c) relevant officers (within the meaning of section 6E);
  - (d) relevant counting officers.
  - (8) The Commission may at any time revise the code.
  - (9) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.
  - (10) In this section [and section 6G](#) –
    - (a) “*accredited observer*” must be construed in accordance with section 6C;
    - (b) “*accredited organisation*” must be construed in accordance with section 6D, and “*nominated member*” must be construed accordingly;
    - (c) “*relevant counting officer*” must be construed in accordance with section 6A;
    - (d) “*representative of the Commission*” has the same meaning as in section 6A

### **6C Accredited observers: individuals**

- (1) A person who is aged 16 or over may apply to the Commission to be an accredited observer at any of the following proceedings relating to an election specified in subsection (5) of section 6A or a referendum to which Part 7 applies–
  - (a) proceedings at the issue or receipt of postal ballot papers;
  - (b) proceedings at the poll;
  - (c) proceedings at the counting of votes.
- (2) If the Commission grant the application, the accredited observer may attend the proceedings in question.
- (3) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 6F [or 6G](#).
- (4) The Commission may at any time revoke the grant of an application under subsection (1).
- (5) If the Commission–
  - (a) refuse an application under subsection (1), or
  - (b) revoke the grant of any such application,they must give their decision in writing and must at the same time give reasons in writing for the refusal or revocation.
- (6) The right conferred on an accredited observer by this section is subject to any enactment which regulates attendance at the proceedings in question.

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## **6D Accredited observers: organisations**

- (1) An organisation may apply to the Commission to be accredited for the purpose of nominating observers at any of the following proceedings relating to an election specified in subsection (5) of section 6A or a referendum to which Part 7 applies—
- (a) proceedings at the issue or receipt of postal ballot papers;
  - (b) proceedings at the poll;
  - (c) proceedings at the counting of votes.
- (2) If the Commission grant the application the organisation may nominate members who may attend the proceedings in question.
- (3) The Commission, in granting an application under this section, may specify a limit on the number of observers nominated by the organisation who may attend, at the same time, specified proceedings by virtue of this section.
- (4) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 6F or 6G.
- (5) The Commission may at any time revoke the grant of an application under subsection (1).
- (6) If the Commission—
- (a) refuse an application under subsection (1), or
  - (b) revoke the grant of any such application,
- they must give their decision in writing and must at the same time give reasons in writing for the refusal or revocation.
- (7) The right conferred by this section is subject to any enactment which regulates attendance at the proceedings in question.

## **6G Code of practice on attendance of observers at devolved elections in Wales**

- (1) The Commission must prepare a code of practice on the attendance at elections specified in subsection (2) of—
- (a) representatives of the Commission,
  - (b) accredited observers, and
  - (c) nominated members of accredited organisations.
- (2) The code must make provision about attendance at—
- (a) general elections of Members of the Senedd;
  - (b) elections under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);

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(c) local government elections in Wales.

(3) The code must in particular–

(a) specify the manner in which applications under sections 6C(1) and 6D(1) are to be made to the Commission;

(b) specify the criteria to be taken into account by the Commission in determining such applications;

(c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;

(d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;

(e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election as it relates to a person having such permission;

(f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.

(4) The code may make different provision for different purposes.

(5) Before preparing the code, the Commission must consult the Welsh Ministers.

(6) The Commission must lay the code before Senedd Cymru.

(7) The Commission must publish the code (in such manner as the Commission may determine).

(8) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E in relation to an election specified in subsection (2)–

(a) the Commission;

(b) representatives of the Commission;

(c) relevant officers (within the meaning of section 6E).

(9) The Commission may at any time revise the code.

(10) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.

## **9A Setting of performance standards**

(1) The Commission may from time to time–

- 
- (a) determine standards of performance for relevant officers mentioned in subsection (2), and
- (b) publish, in such form and in such manner as they consider appropriate, the standards so determined.
- (2) The standards of performance are such standards as the Commission think ought to be achieved by—
- (a) electoral registration officers in the performance of their functions;
- (b) returning officers in the administration of the elections specified in subsection (6);
- (c) counting officers in the administration of the referendums specified in subsection (7).
- (3) Before determining standards under subsection (1), the Commission must consult—
- (a) the Secretary of State, and
- (b) any other person they think appropriate.
- (4) The Commission may determine different standards for different descriptions of relevant officers.
- (5) When the Commission publish standards under subsection (1) they must send a copy of the published standards to the Secretary of State who must lay a copy of the published standards before each House of Parliament.
- (5A) In relation to electoral registration officers for areas in Wales, the reference to their functions in subsection 2 (a) is a reference to their functions in relation to registers of parliamentary electors.
- (6) The elections specified in this subsection are—
- (a) an election mentioned in section 5(2) other than one mentioned in paragraph (d) of that subsection;
- (b) a parliamentary by-election;
- (c) an election under section 9 of the Scotland Act 1998 (constituency vacancies);
- ~~(d) an election under [section 10 of the Government of Wales Act 2006(constituency vacancies)];~~
- (da) an election under section 51 of the Police Reform and Social Responsibility Act 2011 (election to fill vacancy in office of police and crime commissioner);
- (e) a local government election in England ~~or Wales~~ ;
- (f) a local government election in Scotland.
- (7) The referendums specified in this subsection are—
- (a) a referendum to which Part 7 applies;
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~~(b) a referendum under Part 2 of the Local Government Act 2000.~~

(8) For the purposes of this section and sections 9AA, 9B and 9C, the relevant officers are—

(a) electoral registration officers;

(b) in relation to elections within subsection (6) or section 9AA(6), returning officers;

(c) in relation to referendums within subsection (7) or section 9AA(7), counting officers.

## **9AA Performance standards for devolved elections and referendums in**

### **Wales**

(1) The Commission may from time to time—

(a) determine standards of performance for relevant officers mentioned in subsection (2), and

(b) publish, in such form and in such manner as they consider appropriate, the standards so determined.

(2) The standards of performance are such standards as the Commission think ought to be achieved by—

(a) electoral registration officers for areas in Wales in the performance of their functions in relation to registers of local government electors;

(b) returning officers in the administration of the elections specified in subsection (6);

(c) counting officers in the administration of the referendums specified in subsection (7).

(3) Before determining standards under subsection (1), the Commission must consult—

(a) the Welsh Ministers, and

(b) any other person they think appropriate.

(4) The Commission may determine different standards for different descriptions of relevant officers.

(5) When the Commission publish standards under subsection (1) they must send a copy to the Welsh Ministers who must lay a copy before Senedd Cymru.

(6) The elections specified in this subsection are—

(a) a general election of Members of the Senedd;

(b) an election under section 10 of the Government of Wales Act

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2006 (elections for Senedd constituency vacancies):

(c) a local government election in Wales.

(7) The referendums specified in this subsection are referendums under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to executive arrangements of local authorities in Wales).

## **9B Returns and reports on performance standards**

(1) The Commission may from time to time issue directions to relevant officers to provide the Commission with such reports regarding their level of performance against the standards determined under section 9A(1) or 9AA (1) as may be specified in the direction.

(2) A direction under subsection (1)–

(a) must specify the relevant officer or officers to whom it is issued (and may specify a description or descriptions of relevant officers),

(b) may require the report or reports to relate to such elections or referendums (or both) as may be specified in the direction, and

(c) may require the report or reports to be provided in a form specified in the direction.

(3) A report provided to the Commission in pursuance of subsection (1) may be published by the relevant officer to whom it relates.

(4) The Commission shall from time to time prepare and publish (in such manner as the Commission may determine) assessments of the level of performance by relevant officers against the standards determined under section 9A(1) or 9AA (1).

(5) An assessment under subsection (4)–

(a) must specify the relevant officer or officers to whom it relates;

(b) must specify the period to which it relates;

(c) may specify the elections or referendums (or both) to which it relates.

(6) The Commission must not prepare an assessment under subsection (4) unless they have received reports in pursuance of subsection (1) from the relevant officer or officers for the matters to which the assessment relates.

(7) Before publishing an assessment under subsection (4), the Commission shall–

(a) provide to each relevant officer a copy of those parts of the assessment which relate to him;

(b) have regard to any comments made by him regarding the factual accuracy of the assessment.

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### **9C Provision of information about expenditure on elections etc.**

- (1) The Commission may by notice in writing direct a relevant officer to provide the Commission with such expenditure information as may be specified in the direction.
- (2) Expenditure information is information relating to—
  - (a) in the case of an electoral registration officer, expenditure in connection with the performance of his functions;
  - (b) in the case of a returning officer, expenditure in connection with the election or elections specified in section 9A(6) or 9AA (6) for which he is appointed or otherwise holds office;
  - (c) in the case of a counting officer, expenditure in connection with the referendum or referendums specified in section 9A(7) or 9AA(7) for which he is appointed.
- (3) A direction under subsection (1)—
  - (a) may require the information to relate to such elections or (as the case may be) referendums as may be specified in the direction;
  - (b) may require the information to be provided in a form specified in the direction;
  - (c) may specify the time within which the information must be provided.
- (4) This section does not affect any other power of the Commission to request information.

### **13 Education about electoral and democratic systems.**

- (1) The Commission shall promote public awareness of—
    - (a) current electoral systems in the United Kingdom and any pending such systems, together with such matters connected with any such existing or pending systems as the Commission may determine .
  - (1A) Subsection (1) applies to the promotion of public awareness in Gibraltar with the following modifications—
    - (a) in paragraph (a), for “in the United Kingdom” there is substituted “for elections to the European Parliament in the United Kingdom and Gibraltar”.
  - (2) For the purposes of subsection (1) any system such as is mentioned in paragraph (a) of that subsection is pending at a time when arrangements for giving effect to it have been made by any enactment but the arrangements are not yet in force.
- [...]
- (4) The Commission shall perform their functions under subsection (1) in such manner as they think fit but may, in particular, do so by—

- 
- (a) carrying out programmes of education or information to promote public awareness of any of the matters mentioned in subsection (1); or
- (b) making grants to other persons or bodies for the purpose of enabling them to carry out such programmes.
- (5) Any grant under subsection (4)(b) may be made subject to such conditions as the Commission consider appropriate.
- (6) The total expenditure incurred in any financial year by the Commission in performing their functions under subsection (1) (whether by making grants or otherwise) shall not exceed such sum as is for the time being specified for the purposes of this subsection by an order made by the Secretary of State with the consent of the Treasury.

[...]

(8) Subsection (6) shall not apply to the expenditure incurred by the Commission in performing their functions exercisable in relation to local government elections in Scotland.

[...]

(12) Subsection (6) shall not apply to the expenditure incurred by the Commission to the extent that it is, or is to be, met under [paragraph 16A of Schedule 1 to this Act or paragraph 6 of Schedule 2 to the Government of Wales Act 2006](#).

## Schedule 1

Paragraphs 16A to 16C are not included as they are entirely new.

### 14 Financing of Commission

(1) The expenditure of the Commission, so far as it cannot be met out of income received by the Commission, shall be met, in accordance with this paragraph, out of money provided by Parliament (except so far as it is—

(a) reimbursed by the Secretary of State under section 18(9) or the Scottish Ministers in pursuance of section 13A, 19(11) or 145(6);

[\(aa\) met out of the Welsh Consolidated Fund under paragraph 16A;](#)

(b) met by the Welsh Ministers in pursuance of section 5(3) ~~or 20(12)~~; or

(c) met by the ~~National Assembly for Wales~~ [Senedd](#) Commission under Schedule 2 paragraph 6 to the Government of Wales Act 2006.

(2) For each financial year (other than the Commission's first financial year) the Commission shall prepare, and submit to the Speaker's Committee, an estimate of the Commission's income and expenditure.

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(3) The Speaker's Committee shall—

(a) examine each such estimate submitted to them; and

(b) decide whether they are satisfied that the estimated level of income and expenditure is consistent with the economical, efficient and effective discharge by the Commission of their functions; and

(c) if they are not so satisfied, shall make such modifications to the estimate as they consider appropriate for the purpose of achieving such consistency.

(4) Before deciding whether they are so satisfied or making any such modifications, the Speaker's Committee shall—

(a) have regard to the most recent report made to them by the Comptroller and Auditor General under paragraph 16 and to any recommendations contained in that report; and

(b) consult the Treasury and have regard to any advice which the Treasury may give.

(5) The Speaker's Committee shall, after concluding their examination and making their modifications (if any) to the estimate, lay the estimate before the House of Commons.

(6) If the Speaker's Committee, in the discharge of their functions under this paragraph—

(a) do not follow any recommendation contained in the report of the Comptroller and Auditor General,

(b) do not follow any advice given to them by the Treasury, or

(c) make any modification to the estimate,

they shall include in the next report which they make to the House of Commons under paragraph 1 of Schedule 2 a statement of their reasons for so doing.

(6A) An estimate prepared under this paragraph must not include income or expenditure that is attributable to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums (as to which see paragraph 16A).

(7) The Secretary of State may by order provide for the transfer to the Commission of such property, rights and liabilities—

(a) to which he is entitled or subject, and

(b) which are specified in the order,

as he considers appropriate in connection with the establishment of the Commission.

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(8) Such an order may in particular provide for the order to have effect despite any provision (of whatever nature) which would prevent or restrict the transfer of any such property, rights or liabilities otherwise than by the order.

### **15 Five-year plan**

(1) When the Commission submit to the Speaker's Committee such an estimate as is mentioned in paragraph 14 in respect of the first financial year to begin after the day on which Parliament meets for the first time following a parliamentary general election,] the Commission shall also submit to the Committee a plan prepared by the Commission setting out the Commission's—

(a) aims and objectives for the period of five years beginning with the financial year to which the estimate relates, and

(b) estimated requirements for resources during that five-year period.

(1A) The Speaker's Committee may require the Commission to submit a plan under sub-paragraph (1) when the Commission submit such an estimate as is mentioned in paragraph 14 in respect of a financial year other than one mentioned in that sub-paragraph.

(2) The Speaker's Committee shall—

(a) examine each plan submitted to them;

(b) decide whether they are satisfied that the plan is consistent with the economical, efficient and effective discharge by the Commission of their functions; and

(c) if they are not so satisfied, shall make such modifications to the plan as they consider appropriate for the purpose of achieving such consistency.

(3) Before deciding whether they are so satisfied or making any such modifications, the Speaker's Committee shall—

(a) have regard to the most recent report made to them by the Comptroller and Auditor General under paragraph 16 and to any recommendations contained in that report; and

(b) consult the Treasury and have regard to any advice which the Treasury may give.

(4) The Speaker's Committee shall, after concluding their examination and making their modifications (if any) to the plan, lay the plan before the House of Commons.

(5) If the Speaker's Committee, in the discharge of their functions under this paragraph—

(a) do not follow any recommendation contained in the report of the Comptroller and Auditor General,

(b) do not follow any advice given to them by the Treasury, or

(c) make any modification to the plan,

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they shall include in the next report which they make to the House of Commons under paragraph 1 of Schedule 2 a statement of their reasons for so doing.

(6) A plan prepared under this paragraph must not include aims, objectives or estimated requirements for the exercise of the Commission's functions in relation to devolved Welsh elections or devolved Welsh referendums.

## **18.— Audit**

(1) The accounts prepared by the Commission for any financial year shall be submitted by the Commission to—

- (a) the Comptroller and Auditor General, and
- (b) the Speaker's Committee and the Llywydd's Committee,

as soon after the end of the financial year as may be practicable.

(2) The Comptroller and Auditor General shall—

- (a) examine and certify any accounts submitted to him under this paragraph, and
- (b) lay before each House of Parliament and Senedd Cymru a copy of the accounts as certified by him together with his report on them.

(3) The Llywydd's Committee may submit to the Auditor General for Wales any accounts that have been certified and laid before Senedd Cymru under sub-paragraph (2).

(4) The Auditor General for Wales must –

- (a) carry out a further examination of any accounts submitted under sub-paragraph (3), so far as they relate to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums, and
- (b) prepare and lay before the Senedd Cymru a report on the accounts so far as they relate to the exercise of those functions.

## **19.— Accounting officer**

(1) The Speaker's Committee shall designate a member of the Commission's staff to be the Commission's accounting officer.

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(2) The Commission's accounting officer shall have, in relation to the Commission's accounts and finances, the responsibilities that are from time to time specified by the Speaker's Committee.

(3) In this paragraph references to responsibilities include in particular—

- (a) responsibilities in relation to the signing of accounts;
- (b) responsibilities for the propriety and regularity of the Commission's finances; and
- (c) responsibilities for the economy, efficiency and effectiveness with which the Commission's resources are used.

(4) The responsibilities which may be specified under this paragraph include responsibilities owed to the Commission, the Speaker's Committee, [the Llywydd's Committee](#) or the House of Commons or its Committee of Public Accounts.

(5) In this paragraph any reference to the Public Accounts Committee of the House of Commons shall, if—

- (a) the name of the Committee is changed, or
- (b) the functions of the Committee at the passing of this Act (or functions substantially corresponding thereto) become functions of a different committee of the House of Commons,

be taken to be references to the Committee by its new name or (as the case may be) to the committee by whom the functions are for the time being exercisable.

(6) The Secretary of State may designate any member of the Commission's staff or other person to be the Commission's accounting officer until such time as the first designation made under sub-paragraph (1) takes effect.

## **20.— Reports**

(1) The Commission shall, as soon after the end of each financial year as may be practicable, prepare and lay before each House of Parliament a report about the performance of the Commission's functions during that financial year.

[\(1A\) The reference in sub-paragraph \(1\) to the Commission's functions does not include the Commission's functions in relation to devolved Welsh elections or devolved Welsh referendums.](#)

(2) The Commission shall, on so laying such a report, publish the report in such manner as they determine.

---

(3) The functions referred to in sub-paragraph (1) do not include the Commission's functions under Part 1 in relation to local government elections in Scotland

### **20A Reports by Commission: devolved Welsh elections and referendums**

(1) The Commission must, as soon as practicable after the end of each financial year –

(a) prepare a report about the performance of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums during that financial year, and

(b) lay the report before the Senedd Cymru.

(2) On laying the report, the Commission must publish it in such manner as the Commission may determine.

### **20B Reports by the Llywydd's Committee**

(1) The Llywydd's Committee must, at least once in each year –

(a) prepare a report on the exercise by the Llywydd's Committee of its function under this Schedule, and

(b) lay the report before Senedd Cymru.

(2) For the purposes of the law of defamation, the publication of any matter by the Llywydd's Committee in such a report is absolutely privileged.

## **25 Interpretation**

(1) In this Schedule "*delegate*" includes further delegate.

(2) In this Schedule –

"devolved Welsh election" means –

(a) a general election of members of Senedd Cymru;

(b) an election held under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);

(c) a local government election in Wales;

"devolved Welsh referendum" means a referendum held under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to local authority executive arrangements);

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“the Llywydd’s Committee” means the Committee established in accordance with paragraph 16A (5).

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## Annex 10: Table of derivations

The table below is intended to provide information on the derivation of the provisions of the *Senedd and Elections (Wales) Bill*. The table does not provide definitive or exhaustive guidance, and should be read in conjunction with the Bill and the explanatory notes on the Bill. While care has been taken to ensure that the document is as accurate as reasonably practicable, it does not purport to be, and should not be relied on as, authoritative.

### Schedule 2 (Disqualification)

CATEGORIES OF PERSON AND HOLDERS OF OFFICE DISQUALIFIED FROM BEING A MEMBER OF THE SENEDD OR A CANDIDATE IN AN ELECTION TO BE A MEMBER OF THE SENEDD

| Paragraph | Text   | Derivation   |
|-----------|--|--|
|           |  | Section numbers are of the Government of Wales Act 2006 unless otherwise stated.                                   |
|           | <i>Persons under 18 years of age</i>   |  |
| 1         | A person who has not attained the age of 18 before the day on which the person is nominated as a candidate for election as a Member of the Senedd. | Section 17(1) of the Electoral Administration Act 2006 currently applies indirectly by virtue of section 16(2).    |
|           | <i>Citizenship</i>   |  |
| 2(1)      | A person who is not—<br>(a) a British citizen,   | Section 3 of the Act of Settlement 1700 applies indirectly by virtue of section 16(2).                             |
|           | (b) a qualifying Commonwealth citizen,   | Section 18(1)(a) of the Electoral Administration Act 2006 currently applies indirectly by virtue of section 16(2). |

|              |   |  |
|--------------|---|--|
|              | (c) a citizen of the Republic of Ireland, or  | Section 18(1)(b) of the Electoral Administration Act 2006 currently applies indirectly by virtue of section 16(2). |
|              | (d) a citizen of the European Union who is resident in the United Kingdom.  | Section 17(2)  |
| <b>2(2)</b>  | <p>For the purposes of subparagraph (1), a person is a qualifying Commonwealth citizen if that person is a Commonwealth citizen who either—</p> <p>(a) is not a person who requires leave under the Immigration Act 1971 (c.77) to enter or remain in the United Kingdom, or</p> <p>(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.</p> | Section 18(2) of the Electoral Administration Act 2006 currently applies indirectly by virtue of section 16(2).    |
| <b>2(3)</b>  | But a person is not a qualifying Commonwealth citizen by virtue of subparagraph (2)(a) if that person does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).   | Section 18(3) of the Electoral Administration Act 2006 currently applies indirectly by virtue of section 16(2).    |
|              | <b><i>Bankruptcy</i></b>  |  |
| <b>3 (1)</b> | A person on whom a bankruptcy restrictions order, an interim order or a debt relief restrictions order under the Insolvency Act 1986 has effect is disqualified from being a Member of the Senedd.  | Section 426A of the Insolvency Act 1986 currently applies indirectly by virtue of section 16(2)                    |

|      |   |  |
|------|---|--|
| 3(2) | In this schedule, a reference to a bankruptcy restrictions order or an interim order includes a reference to bankruptcy restrictions order or an interim order made under Schedule 2A to the Insolvency (Northern Ireland) Order 1989.                              | Section 426A(8) of the Insolvency Act 1986 currently applies indirectly by virtue of section 16(2)   |
| 4    | Section 426B of the Insolvency Act 1986 (c. 45) applies in relation to this disqualification.   | Section 426B requires a court that makes a bankruptcy restrictions order or a debt relief restrictions order (or an interim order) in relation to an Assembly Member to notify the Presiding Officer. This reference to it is included for reasons of clarity. |
| 5    | A person who would be disqualified from being a Member of the House of Commons by virtue of section 427 of the Insolvency Act 1986 because of an award of sequestration made by a court in Scotland, and that section applies as modified by subsection (6B) of it. | Section 427 of the Insolvency Act 1986 currently applies indirectly by virtue of section 16(2) as modified by subsection (6B) of it.   |
|      | <i>Treason</i>  |  |
| 6    | A person who has been convicted of treason, in the manner provided for by section 2 of the Forfeiture Act 1870.   | Currently applies indirectly by virtue of section 16(2).   |
|      | <i>Incapacities on conviction of corrupt or illegal practice</i>  |  |
| 7    | A person convicted of a corrupt or illegal practice under the Representation of the People Act 1983, and section 173 of that Act applies to membership of the Senedd as an elective office to which that section applies.   | Section 173 of the 1983 Act currently applies indirectly by virtue of section 16(2).   |

|   |  |   |
|---|--|---|
|   | <i>Other criminal offences</i>   |   |
| 8 | A person found guilty of one or more offences (whether before or after the passing of this Act and whether in the United Kingdom or elsewhere), and sentenced or ordered to be imprisoned or detained indefinitely or for more than one year, is disqualified from membership of the Senedd while detained anywhere in the United Kingdom, the Channel Islands, the Isle of Man or elsewhere in the European Union, in pursuance of the sentence or order or while unlawfully at large at a time when the person would otherwise be so detained. | Section 1 of the Representation of the People Act 1981 currently applies indirectly by virtue of section 16(2).   |
|   | <b><i>HOLDERS OF OFFICES WHO ARE DISQUALIFIED</i></b>  |   |
| 9 | The holders of the following offices are disqualified from membership of the Senedd-   |   |
|   | Members of any other legislature, with the following exceptions—<br>(a) Members of the House of Commons in the circumstances provided for in sections 17A and 17B;<br>(b) Members of the House of Lords in the circumstances provided for in section 17C;  | Members of the legislature of any country or territory outside the Commonwealth (and Ireland) are disqualified from being MPs by virtue of section 1(1)(e) of the House of Commons Disqualification Act 1975. This currently applies indirectly by virtue of section 16(2).<br><br>MPs are disqualified under section 16(1)(za); members of the House of Lords are not disqualified because of section 17(1). |
|   | The Auditor General for Wales / Archwilydd Cyffredinol Cymru;  | Section 16(1)(c)  |

|  |   |  |
|--|---|--|
|  | The Public Services Ombudsman for Wales / Ombwdsmon<br>Gwasanaethau Cyhoeddus Cymru;  | Section 16(1)(c)   |
|  | A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in Wales;  | Section 16(4)  |
|  | The holders of the following judicial offices –<br>(a) Judge of the Supreme Court;<br>(b) Judge of the High Court of Justice or Court of Appeal;<br>(c) Circuit Judge;<br>(d) District Judge (Magistrates' Courts) (but not Deputy District Judge (Magistrates' Courts)); | Currently applies indirectly by virtue of section 16(1)(a)'s application of section 1(1) of the House of Commons Disqualification Act 1975 to Assembly elections. The current disqualification also includes certain Scottish and military judges.                 |
|  | Members and staff of The Electoral Commission / Comisiwn Etholiadol;  | Currently disqualified by the National Assembly for Wales (Disqualification) Order 2015 ('the 2015 Order').  |
|  | The Electoral Registration Officer for any area in Wales or the Returning Officer for a constituency or an electoral region of the Senedd;  | Currently disqualified by the 2015 Order – EROs as holders of politically restricted posts within local authorities and ROs by direct reference.   |
|  | Civil Service Commissioners;  | Currently disqualified by the 2015 Order   |
|  | Commissioners for Equality and Human Rights;  | Paragraph 46 of Schedule 1 to the Equality Act 2006 provides that:<br>"A Commissioner or Investigating Commissioner, and a member of a decision-making committee of the Commission, shall be disqualified from being a member of the National Assembly for Wales." |

|  |   |   |
|--|---|---|
|  | The Commissioner for Public Appointments;   | Currently disqualified by the 2015 Order.   |
|  | The Comptroller and Auditor General;  | Currently disqualified by the 2015 Order.   |
|  | The Senedd Commissioner for Standards / Comisiynydd Safonau y Senedd;   | Assembly Members are not eligible to be Commissioner for Standards by virtue of section 1 of The National Assembly for Wales Commissioner for Standards Measure 2009. The Commissioner is are not currently disqualified from being a candidate for election to the Assembly. |
|  | Her Majesty's Chief inspector of Education and Training in Wales / Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru; | Currently disqualified by the 2015 Order  |
|  | Members of the Local Democracy and Boundary Commission for Wales / Aelodau Comisiwn Ffiniau a Democratiaeth Leol Cymru;               | Currently disqualified by the 2015 Order  |
|  | Members of the Independent Remuneration Panel for Wales / Aelodau Panel Annibynnol Cymru ar Gydnabyddiaeth Ariannol;                  | Currently disqualified by the 2015 Order  |
|  | The Parliamentary Commissioner for Administration;  | Currently disqualified by the 2015 Order  |
|  | The Welsh Language Commissioner / Comisiynydd y Gymraeg;  | Currently disqualified by the 2015 Order  |
|  | The Commissioner for Older People in Wales/ Comisiynydd Pobl Hŷn Cymru;   | Currently disqualified by the 2015 Order  |
|  | The Children's Commissioner for Wales / Comisiynydd Plant Cymru;  | Currently disqualified by the 2015 Order  |

|  |   |   |
|--|---|---|
|  | The Future Generations Commissioner for Wales / Comisiynydd Cenedlaethau'r Dyfodol Cymru;                 | Currently disqualified by the 2015 Order  |
|  | Members of the Independent Remuneration Board of the Senedd / Aelodau Bwrdd Taliadau Annibynnol y Senedd; | Assembly Members are disqualified from being members of the Board by paragraph 1 of Schedule 1 to the National Assembly for Wales (Remuneration) Measure 2010. Board Members are not currently disqualified from being candidates for election to the Assembly. |
|  | The Clerk of the Senedd / Clerc y Senedd;   | Section 16(1)(c) of the 2006 Act - which currently applies to all Assembly Commission staff.  |
|  | Acting holders of the above offices;  | This is a new provision.  |
|  | Statutory deputies of holders of the above offices.   | This is a new provision.  |

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# Part 5 : Revisions to the Explanatory Memorandum

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## 26. Amendments to the Bill

### 26.1. Background

- 1.** The Senedd and Elections (Wales) Bill was introduced on 12 February 2019. This Explanatory Memorandum (parts 1 to 4) was prepared and laid alongside the Bill in accordance with Standing Order 26.6.
- 2.** The Bill is subject to the Assembly's legislative scrutiny process. The Assembly's Business Committee decided that scrutiny of the Bill would be undertaken by a Committee of the Whole Assembly. The Committee of the Whole Assembly met on 9 October 2019 to consider all the proposed amendments to the Bill during Stage 2 of the scrutiny process.
- 3.** Standing Order 26.27 requires that if a Bill is amended at Stage 2, the Member in charge of the Bill must prepare a revised Explanatory Memorandum (unless the committee considering Stage 2 proceedings resolves that no revised Explanatory Memorandum is required).
- 4.** As the Member in charge of the Bill, the Llywydd has prepared this additional part of the Explanatory Memorandum to explain how the Bill was amended at Stage 2 and to provide an assessment of the impacts of those amendments, including their financial implications.
- 5.** Amendments to the Bill were also agreed at stage 3 of legislative scrutiny of the Bill, held on 13 November 2019. The Assembly's Standing Orders do not require that an Explanatory Memorandum to a Bill is revised following Stage 3. However as the Member in charge of the Bill, for the purpose of completeness, the Llywydd has updated this additional part of the Explanatory Memorandum to explain how the Bill was amended at Stage 3.
- 6.** Amendments agreed at Stages 2 and 3 of the Bill's scrutiny included a number of significant policy changes as well as technical amendments. As the technical amendments agreed do not impact on delivery of the Bill's policy objectives or its financial implications, only the agreed policy amendments are explained below.
- 7.** As discussed during Stage 1, the Assembly Commission would welcome post-legislative scrutiny of the Senedd and Elections (Wales) Bill in respect of both its policy objectives and the value for money achieved in its

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implementation. The Assembly Commission also intends to evaluate its own effectiveness in implementing those aspects of the legislation for which it will be responsible.

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## 26.2. Overview of the main policy amendments

**8.** The following paragraphs set out the main policy changes agreed to specific parts of the Bill, in addition to the effect of those changes on the cost, benefits, savings and impact assessments originally anticipated at the Bill's introduction.

### 26.2.1. Name of the National Assembly for Wales

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#### 26.2.1.1. Overview of amendments and their rationale

**9.** On introduction, the Bill proposed that the Assembly's name should be changed to "Senedd" and that associated changes should be made to the titles of Assembly Members and Assembly-related bodies. See section 4.2 of the Explanatory Memorandum for further information on the name change provisions included in the Bill on introduction.

**10.** Consideration was given to giving effect to this new name by amending section 1(1) of the Government of Wales Act 2006 to read "There is to be a Welsh Parliament to be known as the Senedd". However, due to concerns about the Assembly's legislative competence to amend the first twelve words of section 1(1), the Bill on introduction amended only the second part of that section, to read "There is to be an Assembly for Wales to be known as the 'Senedd'". See Annex 4 of this Explanatory Memorandum for further details.

**11.** During the Bill's legislative passage through the Assembly, various Members tabled amendments to the Bill to propose different names for the Assembly.

**12.** A majority of Members voted in favour of Carwyn Jones AM's tabled amendment to propose the names "Senedd Cymru" or "Welsh Parliament". During the Stage 2 debate, Carwyn Jones AM stated that the rationale behind the proposed names was to make it "clear in law that Senedd Cymru is Welsh Parliament". He explained that the rationale behind this was to provide "legal assurance and certainty" by ensuring the meaning of "Senedd Cymru" in law is clearly understood.

**13.** Carwyn Jones AM stated that a further set of amendments tabled in his name, also agreed at Stage 2, were aimed at securing the use of 'Senedd' as the commonly-used name for the institution. Consequently, it is primarily the name "Senedd" which appears in the Bill and which is included in the

various Senedd-related names and titles set out in Part 2 of the amended Bill. Table 39 sets out the effect of the amendments agreed on these names and titles.

**Table 39 Changes to the names, titles and descriptors associated with the Assembly**

| Current  | New   |
|--|---|
| National Assembly for Wales<br>Cynulliad Cenedlaethol Cymru  | Welsh Parliament<br>Senedd Cymru  |
| Assembly Members (AM)<br>Aelodau Cynulliad (AC)  | Members of the Senedd (MS)<br>Aelodau o'r Senedd (AS)                                     |
| Clerk of the National Assembly for Wales<br>Clerc Cynulliad Cenedlaethol Cymru                                   | Clerk of the Senedd<br>Clerc y Senedd   |
| National Assembly for Wales<br>Commission<br>Comisiwn Cynulliad Cenedlaethol<br>Cymru                            | Senedd Commission<br>Comisiwn y Senedd  |
| Acts of the National Assembly for Wales<br>Deddfau Cynulliad Cenedlaethol<br>Cymru                               | Acts of Senedd Cymru<br>Deddfau Senedd Cymru  |
| National Assembly for Wales<br>Commissioner for Standards<br>Comisiynydd Safonau Cynulliad<br>Cenedlaethol Cymru | Senedd Commissioner for Standards<br><br>Comisiynydd Safonau y Senedd                     |
| National Assembly for Wales<br>Remuneration Board<br>Bwrdd Taliadau Cynulliad<br>Cenedlaethol Cymru              | Independent Remuneration Board of the<br>Senedd<br><br>Bwrdd Taliadau Annibynnol y Senedd |

**14.** The changes to part 2 of the Bill outlined in table 39 above and to Members' titles will not have an impact on the timescales for the implementation of the name change, as set out in section 4.2.3 of the Explanatory Memorandum. The date the name change provisions come into force (6 May 2020) remains unchanged. The Assembly Commission will work

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with external partners to ensure the name change is implemented and communicated as previously set out in section 4.2.3.

### **26.2.1.2. Overview of effect of amendments on costs, benefits and savings**

**15.** No significant changes to the costs relating to the name change provisions of the Bill (as detailed in Table 14) have been identified as resulting from the amendments agreed at Stages 2 and 3. Costs to items such as external signs, entrance carpets as well as digital items such as web domains, will remain comparable and are not dependent on which name is adopted.

**16.** As shown in Table 14 and Table 21, the Regulatory Impact Assessment for the Bill included a cost of £2500 to replace two branded entrance signs in Siambr Hywel. These branded entrance signs are artwork acquired under license. As it has now been established that replacing these signs is not contingent on changing the name, this cost has been removed from the cost estimates for the Bill (see the revised transitional cost estimates of the Bill for the National Assembly for Wales Commission set out in section 26.4.2 below).

### **26.2.1.3. Impact assessment of amendments**

#### **Official Languages Impact Assessment**

**17.** As referred to in Chapter 18, following the Assembly Commission's consultation, the Assembly Commission decided in June 2017 to change the name of the Assembly to "Welsh Parliament / Senedd Cymru". Following further discussions, the Bill on introduction proposed the name "Senedd" and provided that the "Senedd" may also be known as "Welsh Parliament".

**18.** As previously stated in this Explanatory Memorandum, the requirement to reflect the equal status of both languages does not require both languages to be treated in exactly the same way. It was considered that the adoption of "Senedd" as a new name for the Assembly would help achieve greater parity of status for both languages over time, in terms of their use and profile.

**19.** At Stage 2, the Bill was amended to provide for the new names "Welsh Parliament" and "Senedd Cymru", instead of "Senedd" (although commonly referred to as "Senedd" in both language versions of the Bill and in related titles in both Welsh and English e.g. Clerc y Senedd / Senedd Clerk, Comisiwn y Senedd / Senedd Commission). The effect of the amendment is

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to make clearer that the institution has a Welsh name and an English name in law. Paragraph 902 of the Explanatory Memorandum stated that allowing for the use of “Welsh Parliament” alongside the name “Senedd” will assist those not familiar with the Welsh word to understand the meaning of the name and will further emphasise the constitutional status of the institution as a national parliament for Wales. The same merits can be said to apply to changing the name of the institution to “Welsh Parliament” and “Senedd Cymru”.

### 26.2.2. Extension of the franchise

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#### 26.2.2.1. Overview of amendments and their rationale

**20.** On introduction, the Bill proposed that the minimum voting age for Senedd elections should be lowered from 18 to 16, thereby allowing 16 and 17 year olds to vote in Senedd elections. The Bill also proposed changes to the administration of Senedd elections, including the electoral registration process, in order to facilitate lowering the voting age. See section 4.3 of the Explanatory Memorandum for further information on the relevant provisions included in the Bill on introduction.

**21.** The Committee of the whole Assembly agreed amendments at Stage 2 that also enfranchise ‘qualifying foreign citizens.’ A qualifying foreign citizen is someone who is not an Irish, Commonwealth or EU citizen (on the basis that such persons are already enfranchised) and who is a person who either does not need the permission of the immigration authorities to enter and remain in the United Kingdom (commonly referred to as “leave to enter or remain”) or who does need such permission and it has been granted. The law also provides that a small category of people may also be treated as having leave to remain or enter the UK. As with all other eligible voters a qualifying foreign citizen must satisfy their local Electoral Registration Officer that they are resident in the area in which they wish to register to vote, are not subject to any legal incapacity to vote and are of voting age.

**22.** In moving amendments to enfranchise qualifying foreign citizens, the Counsel General stated that:

“We are seeking to amend the Bill with respect to who may vote in Senedd elections for both principled and practical reasons. At present, European Union and Commonwealth citizens may vote in the Senedd elections. This means citizens of other countries, such

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as the United States of America, who have lived, worked and raised a family here are not able to vote. Our view is that people who contribute to the economic and cultural life of our communities should have a say in the future of that community. Therefore, we are proposing amendments to the Bill to extend the franchise at Senedd elections to foreign citizens who are legally resident in Wales.”

**23.** The Welsh Government’s policy rationale is that this will make clear that people from all nations and nationalities who have made their homes here should be able to participate fully in making our local democracy vibrant and relevant. The Welsh Government considers that foreign citizens who live in Wales should be able to help appoint those who represent them and make decisions on their behalf. The Welsh Government considers that it wishes to promote diversity and wider representation, enfranchising the widest possible group of people will have the benefit of supporting this aim. The Welsh Government has also noted that in its consultation on *Electoral Reform in Local Government in Wales* showed 73 per cent of respondents were supportive of a proposal that voting rights should be extended to all legal residents in Wales, irrespective of their nationality or citizenry. Similarly, in the Assembly Commission’s consultation *Creating a Parliament for Wales*, 66 per cent of respondents considered that all legal residents in Wales should be allowed to vote in Senedd elections, irrespective of their nationality or citizenship.

**24.** At Stage 3 of the Bill’s legislative scrutiny, an amendment tabled by the Llywydd was agreed to delay the commencement of sections 12 to 26 of the Bill until 1 June 2020, rather than on Royal Assent. These provisions provide for 16 and 17 year olds and qualifying foreign citizens to begin registering to vote as local government electors in Wales. As explained in paragraph 538 of this Explanatory Memorandum, only persons on the register of local government electors in Wales can vote in Assembly elections. The effect of this amendment is that 16 and 17 year olds and qualifying foreign citizens will be allowed to register from 1 June 2020 to vote in Assembly elections held on or after 5 April 2021 (the right to vote in Assembly elections provided to such persons takes effect only for elections held on or after 5 April 2021). The rationale for the amendment was to ensure sufficient time for software updates, testing and training to be made to Electoral Management Systems and the Individual Electoral Registration digital service, before those persons enfranchised by the Bill begin registering to vote.

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### **26.2.2.2. Overview of effect of amendments on costs, benefits and savings**

**25.** In its consideration of the financial implications of the Senedd and Elections (Wales) Bill, the Finance Committee made a number of recommendations related to validating and updating costs in the original Explanatory Memorandum to the Bill.

**26.** Moreover, the enfranchisement of qualifying foreign citizens has substantive implications for the costs, benefits and savings associated with the original Explanatory Memorandum. These issues are considered below.

#### **Costs to local authorities – Electoral Management Systems software**

**27.** In its report on the financial implications of the Senedd and Elections (Wales) Bill, the Finance Committee recommended that further work be undertaken to ensure that the costs that will be incurred by local authorities in updating their Electoral Management Systems are robust. The Committee recommended that this information should be included in the revised Regulatory Impact Assessment published after Stage 2 proceedings and should detail the views of local authorities on the appropriateness of these costs.

**28.** Each local authority contracts a software company to provide the software for the Electoral Register – referred to as the Electoral Management System (EMS). The 22 local authorities work with three software companies. Following the introduction of the Bill, work has not progressed to a stage whereby detailed quotations could be provided by the software companies in relation to the estimated work involved in updating the EMS software itself (though see paragraph 30, below).

**29.** The initial estimates included in the Explanatory Memorandum were based on costs outlined to extend the franchise in Scotland. It is now considered that there are likely to be marginal savings on these figures, to reflect that the necessary work to update software for enfranchising 16 and 17 year olds has already been taken forward by some contractors (but not all) as part of their work with local authorities in Scotland. Commercial sensitivity means that specific costs of software updates taken forward for the work in Scotland are not available. However, these savings will be offset by the additional costs arising from updating systems to accommodate qualifying foreign nationals in voting. As such, the estimated cost to local authorities of updating the EMS software remains an estimated £636,600.

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**30.** In their oral evidence to the Finance Committee, the Association of Electoral Administrators indicated that the work to commission the updates to EMS systems should be taken forward centrally in order to negotiate changes with EMS providers as one block for consistency and value for money purposes. The Welsh Government is leading on this work and has been engaging with EMS providers directly to develop specifications and negotiation costs.

**31.** However, an additional cost has also been identified to the Welsh Government, for engaging the Digital Delivery Team at Cabinet Office for the project management of the changes to the EMS software. It is anticipated the cost will be £60,000, to be incurred in 2020-21.

### **Costs to local authorities – annual registration of enfranchised qualifying foreign citizens**

**32.** Paragraphs 535 to 538 of the Explanatory Memorandum set out the anticipated increased expenditure arising from lowering the voting age for local authorities in terms of the costs of registering an additional number of people.

**33.** The number of foreign citizens who are legally resident in Wales has been calculated by using Office of National Statistics (ONS) data detailing the population of the UK by nationality. The ONS data indicates that, at the end of 2017, there were 135,000 foreign citizens legally resident in Wales.<sup>251</sup>

**34.** Of these, 79,000 were EU citizens, including 7,000 from the Republic of Ireland.

**35.** The ONS data also details population estimates by nationality. Using this, it is calculated that, as at the end of 2017 there were approximately 23,000 Commonwealth citizens living in Wales.

**36.** This means that of the 135,000 foreign citizens legally resident in Wales at the end of 2017, 33,000 were not citizens of the Commonwealth, Republic of Ireland, or EU.<sup>252</sup>

**37.** It is not possible to be certain how many of these 33,000 are under voting age (which may not follow the age distribution pattern for the wider

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<sup>251</sup> Office of National Statistics, **Population of the UK by Country of birth and nationality, January to December 2018**

<sup>252</sup> 135,000 - 79,000 - 23,000 = 33,000

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population). As such, this figure is considered to be the closest reasonable approximation that can be made of the number of additional people who would be enfranchised, if qualifying foreign citizens resident in Wales were able to vote in Senedd elections.

**38.** As previously detailed in this Explanatory Memorandum, *The cost of electoral administration in Great Britain: Financial information surveys 2009-10 and 2010-11* indicated that registration spend per elector, split during canvass and outside of canvass for 2010-11 was £1.17 and £0.96 per voter respectively. This figure covered a wide range of costs such as the core registration team, design and printing, mail costs, canvassing and compilation of the register.

**39.** The Electoral Commission report *The Cost of Electoral Administration in Great Britain: Financial information surveys 2009-10 and 2010-11* is recognised as the most comprehensive assessment of per elector costs which has not been replicated since.

**40.** It may be argued that the costs of the 2016 election would represent the most up-to-date data. Notably on 9 October 2019, the Welsh Government published data on the money spent in each constituency and region associated with the 2016 elections.<sup>253</sup> However, as a combined poll was held in 2016, it is not possible to apportion costs from 2016 solely for the Assembly election. Therefore it is considered that the Electoral Commission figures from 2009-2011, uprated for inflation, reflect most accurately the overall cost per elector for the purposes of considering the extension of the franchise.

**41.** Consequently, a notional cost of £1.07 per elector is assumed, based on the average of the 'during canvass' and 'outside canvass' costs. This cost has been uprated to £1.22 to account for inflation using the Bank of England Inflation Calculator.

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<sup>253</sup> Welsh Government, [National Assembly for Wales election costs: 2016](#)

**Table 40 Estimated cost of registering the additional electorate**

| Registering the additional electorate                      | Population estimate (mid-2017) | Cost per elector (£) | Total (£)     |
|--|--------------------------------|----------------------|---------------|
| Annual registration of newly enfranchised foreign citizens | 33,000                         | 1.22                 | 40,260        |
| <b>Total</b>   |                                |                      | <b>40,260</b> |

### **Costs to local authorities – awareness raising**

**42.** Paragraphs 543 to 545 of the Explanatory Memorandum set out that the forthcoming Local Government (Wales) Bill is expected to include provisions to place a duty on local authorities to promote awareness among relevant young people of the arrangements for electoral registration that apply to them and to assist them to register. It is understood that the Welsh Government is exploring whether any additional funding could be made available for this purpose.

**43.** For the purposes of the Explanatory Memorandum, it was estimated that each local authority would deploy one half time officer for this purpose and allocate a modest working budget of £10,000 (see Table 26).

**44.** At the current time, it is unknown as to whether the enfranchisement of qualifying foreign citizens would result in increased costs to local authorities, in terms of promoting awareness amongst foreign citizens of the arrangements for electoral registration that apply to them and to assist them to register. It is possible that this activity may be absorbed within the estimation of each local authority deploying one half time officer for the purpose of promoting awareness of the franchise. But at the current time this is unknown.

### **Costs to the Welsh Government – amendment of the IER digital registration service**

**45.** Those newly enfranchised would be able to register through the UK Government’s Individual Electoral Registration (IER) digital service. Presently in Wales, this online system cannot be used to register anybody under 16 or who are not currently enfranchised. The quotation included in the RIA on introduction to amend the digital registration system to allow those under 16 to register to vote was £21,200.

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**46.** These costs can now be updated to reflect initial costs quoted by the IER service in respect of updates to:

- enable both 16- and 17-year-olds and qualifying foreign citizens to register to vote;
- incorporate changes to extend the service to enable young people who are looked after to access a Declarations of Local Connection electronically; and
- incorporate important user testing of these changes.

**47.** To incorporate these elements the Welsh Government has stated that the original estimated cost of £21,200 should now be updated to £76,000.

### **Costs to the Welsh Government – increased costs per elector**

**48.** Paragraph 549 of the Explanatory Memorandum sets out that for Assembly elections the Welsh Ministers pay the costs via a charge on the Welsh Consolidated Fund. The Welsh Government provide an estimate for the cost of the election which is then drawn down to cover the costs of the election. The '*Cost of electoral administration in Great Britain*' indicates that the election expenditure per elector in Wales in 2010-11 was £1.96. As previously noted, this includes the costs of mounting the election and counting the votes. As previously noted, this is considered to be the most up-to-date figure available. The cost of £1.96 is updated to £2.23 to account for inflation.

**Table 41 Cost of additional voters**

| <b>Cost of additional voters</b>                            | <b>Population estimate (mid-2017)</b> | <b>Cost per elector (£)</b> | <b>Total (£)</b> |
|---|---------------------------------------|-----------------------------|------------------|
| <b>Increased electorate (foreign citizens) at elections</b> | 33,000                                | 2.23                        | 73,590           |
|   |                                       | <b>Total</b>                | <b>73,590</b>    |

### **Costs to the Welsh Government – awareness raising**

**49.** On introduction, paragraph 555 of the Explanatory Memorandum to the Bill stated that:

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“The Welsh Government’s intention is to undertake a three year campaign which will encompass both the Assembly and local government elections. This will include the extension of the local government franchise to include foreign nationals, in addition to 16- and 17-year olds. The proportion of the overall cost to the Welsh Government of developing awareness raising resources that will specifically relate to the extension of the Assembly franchise is currently unknown. As such, the potential Welsh Government cost of awareness raising in relation to extending the Assembly franchise to 16 year olds is treated in this RIA as being unknown.”

**50.** This reflected that in a letter to the Llywydd dated 30 January 2019 from the Minister for Education and Minister for Housing and Local Government, the costs to the Welsh Government of communication and education campaigns related to extending the franchise were estimated to be between £895,000 and £945,000 over three years, commencing in 2019-20. However, the Welsh Government’s figures did not distinguish between costs related to raising awareness of franchise changes for local government elections and for Senedd elections. As such, the cost was treated in the Regulatory Impact Assessment as being unknown.

**51.** In correspondence to the Finance Committee dated 13 August 2019, the Llywydd set out that the Welsh Government had subsequently indicated that this sum was comprised of:

- £600,000 towards the production of resources for schools;
- £215,000 to £265,000 towards a communications campaign on registration and encouraging people to vote; and
- £80,000 towards research to inform the communication campaign.

**52.** The Welsh Government has subsequently confirmed that it anticipates it incur costs undertaking activities to develop an evidence base on what works in relation to encouraging democratic engagement and produce a range of educational materials and other resources to support the extension of the franchise. It has stated that these costs will be approximately £945,000 split between 2020-21 and 2021-22.

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**53.** However, the proportion of this cost which relates to the Senedd and Elections (Wales) Bill is still unknown. The Counsel General stated in correspondence to the Finance Committee dated 20 September 2019 that:

“As the awareness-raising campaign will cover the extension of the franchise for both assembly and local government elections I am afraid it is simply not possible to single out the costs incurred for each election in a meaningful way.”<sup>254</sup>

**54.** For the purpose of this update, the cost of awareness raising related to the Senedd and Elections (Wales) Bill is still considered to be unknown (as a portion of the £945,000).

### **Costs to the Electoral Commission – awareness raising, registration forms**

**55.** In their written evidence to the Expert Panel on Assembly Reform the Electoral Commission confirmed that a figure of “around £120,000 would be an appropriate estimate for the additional public awareness costs for the Scottish Parliament elections arising from the [Scottish Elections] Bill”.<sup>255</sup>

**56.** ONS data indicates there were 115,844 16 and 17 year olds in Scotland in 2016, which means the Electoral Commission spent approximately £1.04 per elector on awareness raising activities.<sup>256</sup>

**57.** Taking into consideration inflation, an indicative cost of £1.10 per elector has been estimated as representing the cost of the Electoral Commission’s public awareness raising. For the purpose of this update to the Explanatory Memorandum, it is assumed that this cost can be applied uniformly to all newly enfranchised voters.

**58.** From this, it is estimated that the Electoral Commission’s one-off cost for awareness raising will rise by £36,300, as a result of enfranchising qualifying foreign citizens.

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<sup>254</sup> National Assembly for Wales, **Letter from Counsel General to Chair of Finance Committee**, 20 September 2019

<sup>255</sup> Expert Panel on Assembly Reform, **Written submissions to the Expert Panel**

<sup>256</sup> Office of National Statistics Population Estimates (2016)

**Table 42 Cost of Electoral Commission's awareness raising activities**

| Electoral commission awareness raising        | Population estimate (mid-2017) | Cost per elector (£) | Total (£)     |
|---|--------------------------------|----------------------|---------------|
| Qualifying foreign citizens resident in Wales | 33,000                         | 1.10                 | 36,300        |
| <b>Total</b>                                  |                                |                      | <b>36,300</b> |

**59.** It is assumed that no additional costs will be incurred by the Electoral Commission on the redesign and testing of registration forms, and that this would be included in the already identified costs relating to extending the franchise to 16- and 17-year olds.

### **Costs to the Assembly Commission – awareness raising**

**60.** Paragraphs 561 to 571 of the Explanatory Memorandum set out how the Assembly Commission's costs in relation to promoting awareness of the change in voting age have been calculated.

**61.** Paragraph 5 of Schedule 2 to the GOWA 2006 sets out specific powers of the Assembly Commission in relation to the promotion of awareness of the current or pending systems for the election of Assembly Members and devolved elections in Wales. This includes who is eligible to vote in Senedd elections, as well as changes to the disqualification rules etc. Paragraph 6 of the same Schedule enables the Assembly Commission to provide financial assistance to the Electoral Commission, in relation to raising public awareness of those matters, should it consider it appropriate to do so. These are discretionary powers of the Assembly Commission, not duties or obligations. Nevertheless, the Assembly Commission has wide discretion as to the role it wishes to take, if any. For example, it may undertake that work itself, work in partnership with others, or fund others to undertake that work.

**62.** In advance of the Assembly elections in 2011 and 2016, the Assembly Commission delivered public information campaigns to raise awareness of the election and encourage people to register and to vote.

**63.** It is therefore plausible that the Assembly Commission will seek to raise awareness amongst qualifying foreign citizens of their right to vote in the 2021 Assembly election. However, the costs involved in such are currently unknown.

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### 26.2.2.3. Overview of other impacts

#### Equality Impact Assessment

**64.** Enfranchising all foreign nationals will impact on individuals who are currently not able to participate in Welsh democracy by voting. As the franchise already includes people from Commonwealth countries, the Republic of Ireland and EU nationals, a large proportion of those who are to be enfranchised by the updated provisions of the Senedd and Elections (Wales) Bill are likely to be from BME communities. The Welsh Government has stated that the extension of the franchise will help to make clear to those individuals that they are settled, respected members of communities who are able to exercise their democratic responsibilities.

#### Justice Impact Assessment

**65.** The existing electoral offences in the *Representation of the People Act 1983* will apply to a wider range of people in light of the proposed extension of the franchise.

**66.** Electoral offences are infrequently prosecuted across the UK. The Electoral Commission's report on analysis of the cases of alleged electoral fraud in the UK in 2017 shows the number of cases was 336. 12 of these cases were reported by Welsh Police forces in 2017 from a total electorate of 2,279,216.

**67.** Of the total 336 cases of alleged electoral fraud across the UK in 2017, at the time of this update:

- a significant majority had either resulted in no further action being taken by the police following the conclusion of their investigations, or otherwise had been resolved locally;
- 44 cases were still under investigation;
- 7 cases were awaiting prosecution advice;
- 2 cases had had court procedures initiated;
- 1 case had resulted in an acquittal;
- 8 cases had resulted in cautions; and
- 1 case had resulted in a conviction.

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## Children's Rights Impact Assessment

**68.** 16- and 17-year-old qualifying foreign citizens will be able to vote in Senedd elections from 2021. Young people of this age will have access to political education in schools and the support structures to help them vote for the first time.

**69.** Extending the franchise for Senedd elections to 16- and 17-year-old qualifying foreign citizens is consistent with Article 14 of the UNCRC which states that "*States Parties shall respect the right of the child to freedom of thought, conscience and religion.*" The franchise will enable this particular group of young people to participate in decisions about who represents them at a local authority level, which is directly relevant to Article 14 of the Convention.

### 26.2.3. Disqualification from being an Assembly Member

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**70.** The Bill, on introduction, proposed to make changes to the legislative framework on disqualification from membership of the Senedd. See section 4.4 of the Explanatory Memorandum for further information on the relevant provisions included in the Bill on introduction.

**71.** At Stage 2, the Committee of the Whole Assembly agreed a number of amendments to the Bill's disqualification provisions. Such amendments included changes to the list of disqualifications included in the Bill on introduction as well as changes to the new legislative framework on disqualification proposed by the Bill on introduction i.e. the Assembly's rules on disqualification.

**72.** These amendments are considered below in terms of:

- The insertion of new disqualifications from membership of (but not standing for election to) the Senedd;
- The insertion of new disqualifications from standing for election to the Senedd;
- The removal of certain disqualifications from standing for election to the Senedd.

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### 26.2.3.1. Overview of amendments and their rationale

#### Local authority members

**73.** An amendment tabled by the Counsel General, and agreed by Members at Stage 2, provided for an additional disqualification from membership of the Senedd.

**74.** The amendment disqualifies a member of the council of a county or county borough in Wales (i.e. local authority members) from serving in the Senedd. Explaining the rationale for this amendment during Stage 2 proceedings on the Bill, the Counsel General noted that:

“In the Welsh Government’s view it is inappropriate for a Senedd Member to also be a principal councillor, as the Senedd sets the legislative and financial framework for local authorities in Wales, and in particular as these powers have increased over time with each new phase in the devolution settlement. The Welsh Government has consulted twice previously on this issue and there is support for this proposal. Likewise, the Constitutional and Legislative Affairs Committee recognised this issue in 2014 and highlighted the potential conflicts of interest and of time that holding dual roles presents ...”<sup>257</sup>

**75.** Amendments were also agreed to provide the following exceptions from disqualification on the basis of membership of a local authority:

- A member of a local authority returned as a Member of the Senedd<sup>258</sup> in a Senedd election is not disqualified until he or she purports to take the oath of allegiance required of all Members.
- A Member of the Senedd returned in a local authority election is not disqualified from membership of the Senedd until he or she makes a declaration of acceptance of office as a local authority member.

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<sup>257</sup> National Assembly for Wales, **Committee of the Whole Assembly**, 9 October 2019

<sup>258</sup> Part 2 of the Bill provides for the titles ‘Members of the Senedd’ and ‘Aelodau’r Senedd’. However, Schedule 1 of the Bill as amended at Stage 2 provides, amongst other matters, for the new title ‘Members of Senedd Cymru’ for Assembly Members. It was agreed at Stage 2 that this inconsistency would need to be addressed at Stage 3 of the Bill’s scrutiny.

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- A local authority member returned in a Senedd election as a Member of the Senedd within 372 days of the next ordinary election of the local authority is not disqualified, at any time, in the period beginning with the day of his or her return in the Senedd election and ending with the fourth day after the day of the next ordinary election of members of the council.
  - A Member of the Senedd returned in a local authority election as a member of the local authority within 372 days of the next ordinary Senedd election is not disqualified, at any time, in the period beginning with the day of his or her return in the local authority election and ending immediately before the day of the next general Senedd election.

**76.** Such exceptions from disqualification on the basis of membership of a local authority are similar to the exceptions from disqualification on the basis of membership of the House of Commons currently provided for by the Government of Wales Act 2006.

**77.** Numerous changes were agreed at Stage 2 to the disqualifications from standing for election to, and membership of the Senedd, included in the Bill on introduction.

### **Bankruptcy**

**78.** The Bill as introduced disqualified persons subject to a bankruptcy restrictions order, an interim bankruptcy restrictions order or a debt relief restrictions order from standing for election. The Bill as amended also disqualifies persons subject to an interim debt relief restrictions order from standing for election and membership of the Senedd.

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## Sex offenders

**79.** The amended Bill disqualifies persons subject to the notification requirements of, or an order under Part 2 of the *Sexual Offences Act 2003* from standing for election for the period during which they are subject to such notifications or orders. The Counsel General proposed this new disqualification by amendment.

**80.** The UK Government consulted in 2018 on its intention to disqualify persons subject to the notification requirements set out in the Sexual Offences Act 2003 from serving as Councillors and Mayors. 83 per cent of respondents to the consultation agreed with the intention. The UK Government explained that this move would “encourage continued public confidence in elected members, and signals the importance we attach to the conduct of elected members.” As yet the UK Government has not legislated on to introduce this disqualification.<sup>259</sup>

**81.** Following Stage 2, the Welsh Government has stated that its rationale for this disqualification was that it is not considered appropriate for someone subject to such requirements or orders to become a Member of the Senedd.

## Members of other legislatures

**82.** The Bill as introduced disqualified ‘members of any other legislature’ from standing for election, with the exception of members of the House of Commons and members of the House of Lords who were disqualified by the Bill from serving in the Senedd, but not from standing.

**83.** An amendment tabled by the Counsel General was agreed at Stage 2 to replace this disqualification with the disqualification of ‘members of the legislature of any country or territory outside the United Kingdom’. One effect of this amendment would have been that members of the European Parliament, the Scottish Parliament and Northern Ireland Assembly would be able to stand for election to the Senedd. Should they be elected, such Members would have been allowed to serve in the Senedd and in their other respective legislatures at the same time, which the Bill as introduced would not have permitted.

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<sup>259</sup> UK Government, Ministry of Housing, Communities and Local Government, **Consultation on Updating the Disqualification Criteria for Councillors and Mayors: A summary of consultation responses and the Government response**, October 2018

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**84.** At Stage 3 Members agreed (via amendment 89, tabled by the Llywydd) to disqualify Members of the Scottish Parliament, Northern Ireland Assembly or the European Parliament from membership of the Assembly, but not from standing for election. In effect, the Bill as amended at Stage 3 treats such persons in a similar way to members of Parliament and members of the House of Lords (i.e. allowed to stand for election but prohibited from serving in the Assembly). Consequently, if a member of the Scottish Parliament, Northern Ireland Assembly or the European Parliament were successfully returned in an Assembly election, they would have to relinquish their membership of the other legislature in order to be allowed to serve in the Assembly. As noted above, Members of legislatures outside the United Kingdom will be disqualified from standing for election to the Assembly.

**Civil servants, members of the armed forces, members of any police force and Senedd Commission staff**

**85.** Civil servants, members of the armed forces, members of the police and Senedd Commission staff are all currently disqualified from standing for election to the Senedd. On introduction, the Bill removed such disqualifications, with the exception of the Clerk of the Senedd. This was intended to give effect to the recommendations made by the Fourth Assembly's Constitutional and Legislative Affairs Committee that opportunities to stand for election should be maximised and that as few citizens as possible should be disqualified from standing. This policy also intended for restrictions on political activity by such persons to be addressed in their conditions of employment rather than in legislation, to allow for greater flexibility to change restrictions if required.

**86.** Amendments tabled by the Counsel General and agreed by Members at Stage 2 reinstate all such disqualifications. This includes the disqualification of all Senedd Commission staff (i.e. not only the Clerk of the Senedd).

**87.** The Counsel General stated during Stage 2 proceedings that the Welsh Government's reasons for disqualifying all such persons from standing for election were as follows:

“In each case, we believe these people should be debarred both from candidature for and membership of the Senedd. None are eligible for membership of the Assembly at present, and it is not clear why they should become eligible to be candidates for and

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Members of the Senedd in the future [...] we value enormously the political impartiality of our civil servants. How that can be maintained if they are free to participate publicly in the political process? So we oppose that, and wish to maintain the existing disqualification [...] for the same essential reasons, civil servants and Commission staff should stand aloof from direct participation in the political and electoral process, and our amendments would maintain that position.”<sup>260</sup>

## Judges

**88.** On introduction, the Bill disqualified the holders of a limited number of judicial offices from standing for election to the Senedd. Amendments proposed by the Counsel General and agreed by Members at Stage 2 inserted additional judicial offices to that list (for example a Judge of the Court of Sessions, a Temporary Judge in Scotland, and a Judge of the Court Martial Appeal Court). In doing so, the amended Bill retains a number of disqualifying judicial offices that would have been removed by the Bill as introduced.

**89.** During Stage 2 proceedings, the Counsel General stated that the rationale for this change was similar to that provided for reinstating the disqualification of civil servants i.e. to ensure political impartiality.

## Disqualifications removed from the Bill

**90.** As well as adding to the list of disqualifications from standing for election to the Senedd, amendments agreed by Members at Stage 2 removed certain disqualifications from the Bill.

**91.** On introduction, the Bill disqualified persons who had been convicted of treason. This disqualification was removed from the Bill by amendment, on the basis that the Welsh Government considered this provision to be outdated and unnecessary due to the separate general disqualification for persons convicted of any offence and sentenced to more than one year’s imprisonment.

**92.** The Bill was amended at Stage 2 to allow qualifying foreign citizens to stand for election to the Senedd, thereby removing the prohibition of such persons from doing so. For this particular purpose, qualifying foreign citizens

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<sup>260</sup> National Assembly for Wales, **Committee of the Whole Assembly**, 9 October 2019

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are defined in the Bill as a person resident in the UK who is not a citizen of the Commonwealth, Republic of Ireland or the EU, and who either has indefinite leave to remain in the UK or does not require such. It may be noted that this is a different definition to that used in relation to the enfranchisement of qualifying foreign citizens to vote in Senedd elections, The Counsel General explained during Stage 2 proceedings that this change was consequential to amendments to allow qualifying foreign citizens to vote in Senedd elections:

“The Welsh Government believes that citizens of other countries should likewise be eligible for candidacy and membership, provided they are resident in the UK and either do not need leave to enter or remain in the UK under the immigration legislation, or did, indeed, need leave but have been granted indefinite leave to remain.”<sup>261</sup>

### **Changes to the legislative framework on disqualification**

**93.** An amendment by the Counsel General was agreed at Stage 2 to give effect to disqualification from standing for election to the Senedd. The amendment inserted a new provision into the Bill to provide that where a person who is disqualified from standing for election is nominated for election, the person’s nomination is void.

#### **26.2.3.2. Overview of effects of amendments on costs, benefits and savings**

**94.** As noted in section 11.2 of this Explanatory Memorandum, the provisions on disqualification in the Bill on introduction were envisaged to give rise to very limited costs only. It is anticipated that amendments to those provisions agreed at Stages 2 and 3 will have very little impact on their cost implications.

**95.** Guidance on the Assembly’s rules on disqualification published by the Electoral Commission is updated prior to each Assembly election. As noted in section 4.4.3 of this Explanatory Memorandum, other bodies such as the Senedd Commission, Welsh Government and House of Lords may also need to publish updated guidance on disqualification following the passing of this Bill.

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<sup>261</sup> Ibid.

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**96.** The additional disqualifications proposed by amendments may mean that this updating of guidance requires more work than would otherwise have been the case. However the likely cost implications of any such additional work are considered to be negligible.

### **26.2.3.3. Overview of other impacts**

**97.** Section 17.5.1.5 of this Explanatory Memorandum notes that a tenuous argument can be made that disqualifying Members of the House of Lords could have a greater impact on older persons and potentially lower the average age of Assembly Members. This is because the average age of Members of the Assembly is 53 compared to the average age of 70 in the House of Lords.

**98.** The same argument could be said to apply to the disqualification of local authority councillors. According to a report published by the Welsh Government in 2017, 47 per cent of local authority councillors and 55 per cent of community councillors were aged 60 years or older.<sup>262</sup>

**99.** As the amendments agreed at Stages 2 and 3 do not introduce significant policy changes to the disqualification of Members of the House of Lords, the effects of the relevant provisions on age is not considered to be any greater or less as a result of the amendments agreed.

**100.** The disqualification of local authority councillors by amendment at Stage 2 is also not considered to have a significant effect on age as historically, only a limited number of councillors have also served in the Assembly at the same time.

**101.** Section 17.6.2 of this Explanatory Memorandum explains the reasons why the limited number of restrictions to participating in Senedd elections proposed by the Bill on introduction as additional disqualifications were not considered to breach Article 3 Protocol 1 of the Human Rights Convention (the right to free elections).

**102.** The Bill as amended at Stage 2 proposes an increased number of such restrictions, for example the disqualification of local authority members or persons on the sexual offences register.

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<sup>262</sup> Welsh Government, **Local Government Candidates Survey 2017**

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**103.** The Welsh Government considers that the Bill as amended is compatible with Article 3 Protocol 1 of the Convention on the bases that there is a clear and reasonable justification for these provisions (as set out above).

**104.** Section 22 of this Explanatory Memorandum acknowledges that by changing the point at which many disqualifications take effect, from nomination for candidature to taking the oath of allegiance, the Bill as introduced potentially impacts in a positive and negative way on the third sector. This is because a number of disqualifications that would apply in future on taking the oath instead of nomination for candidature are roles held within the third sector in Wales.

**105.** None of the additional disqualifications agreed by amendment at Stages 2 and 3 are roles held within the third sector. Therefore such additional disqualifications are not considered to change the potential impacts on the third sector of the Bill's disqualification provisions. The same is true of the potential impacts of those provisions on the rural community, set out in section 24.6 of this Explanatory Memorandum.

#### 26.2.4. Financial and oversight arrangements for the Electoral Commission

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**106.** The *Wales Act 2017* transferred responsibility for devolved elections and referendums in Wales to the Assembly. To reflect that transfer of responsibility, it is the Assembly Commission's aim that the Electoral Commission should be accountable to – and financed by – the Senedd for the oversight of those devolved elections.

**107.** A similar transfer of responsibility is currently being considered in Scotland. In September 2019, the Scottish Government introduced the Scottish Elections (Reform) Bill to transfer the financing and oversight of the Electoral Commission's work in relation to devolved Scottish elections and referendums to the Scottish Parliament.<sup>263</sup>

**108.** The Senedd and Elections (Wales) Bill on introduction imposed a duty to consider reform of oversight of the work of the Electoral Commission. See section 12 of the Explanatory Memorandum for further information on the relevant provisions included in the Bill on introduction.

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<sup>263</sup> The Scottish Parliament, **Scottish Elections (Reform) Bill**, September 2019

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**109.** On the introduction of the Bill, the Llywydd wrote to the Constitutional and Legislative Affairs Committee to provide additional context for the Committee in its consideration of section 27 of the Bill.<sup>264</sup> The Llywydd wrote that the provisions of the Bill on introduction were ‘intended primarily to signal a policy intention (during Stage 1 of the Bill) to address the financing and accountability of the Electoral Commission through amendments to the Bill.’

**110.** The Counsel General and the Llywydd were invited to give evidence to the Finance Committee about their proposals in relation to the Electoral Commission, which they did on the 25 September 2019. During that evidence session, the Llywydd and the Counsel set out their respective policy preferences and discussed other related matters, including the need for the UK Government to give its consent to provisions in the Bill. The Counsel General also acknowledged the risk of consent not being obtained, stating that:

“If we got to a stage where amendments, having been tabled and passed—the consents weren't forthcoming [...] We would need to look at amending the Bill to take them out, I think, at that point.”<sup>265</sup>

**111.** The Finance Committee’s report, published on 27 September 2019, considered the proposals and made three recommendations.<sup>266</sup>

**112.** After having considered the Finance Committee’s report, the Llywydd and the Counsel General reached an agreement over the details of how the Electoral Commission should be financed and to which body of the Senedd it should be accountable.

**113.** At Stage 2 proceedings, the Committee of the Whole Assembly, Members agreed to the amendments moved by the Counsel General and Llywydd.

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<sup>264</sup> National Assembly for Wales, **Letter from the Llywydd to the chair of the Constitutional and Legislative Affairs Committee**, 12 February 2019

<sup>265</sup> National Assembly for Wales, **Finance Committee**, 25 September 2019

<sup>266</sup> National Assembly for Wales, **Finance Committee report. Senedd and Elections (Wales) Bill: Further scrutiny of the financial implications**, September 2019

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#### **26.2.4.1. Overview of amendments and their rationale**

**114.** The Electoral Commission is currently accountable to the House of Commons via the Speaker’s Committee for all of its work. Following amendments made at Stage 2, the Senedd and Elections (Wales) Bill changes that, so that the Electoral Commission will be accountable to the Senedd for its work relating to devolved Welsh elections and devolved Welsh referenda (referred to throughout this chapter as its ‘Welsh activities’).

**115.** In order to transfer accountability for its Welsh activities to the Senedd, provisions were amended into the Senedd and Elections (Wales) Bill during Stage 2 Proceedings to amend the *Political Parties, Elections and Referendums Act 2000* (PPERA), which establishes the Electoral Commission and sets out provisions regarding its financing, audit and accountability arrangements (amongst others). These changes are set out in section 28 and Schedule 2 of the Senedd and Elections (Wales) Bill as amended.

**116.** Section 28 sets out that, in Wales, the scrutiny of the Electoral Commission will be carried out by a committee of the Senedd. This committee will be called the Llywydd’s Committee.

**117.** Every year, the Electoral Commission will submit the following to the Llywydd’s Committee no later than six months before the financial year to which they relate:

- an estimate of income and expenditure associated with its Welsh activities; and
- a plan that sets out its aims, objectives and estimated budget for its Welsh activities in the ensuing five-year period.

**118.** To assist the Llywydd’s Committee with its scrutiny of the Electoral Commission’s estimate and five-year plan, the Comptroller and Auditor General will carry out an examination of the value for money with which the Electoral Commission has used its resources and will submit a report to the Llywydd’s Committee.

**119.** Having considered the Comptroller and Auditor General’s report, alongside any advice received from Welsh Ministers, the Llywydd’s Committee will lay the Electoral Commission’s estimate and five-year plan

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before the Senedd, incorporating any modifications that the Committee has made.<sup>267</sup>

**120.** The amendments provide for the Electoral Commission to be funded directly from the Welsh Consolidated Fund. The Electoral Commission's estimates – as laid by the Llywydd's Committee – will be included within Welsh Government's Annual Budget Motion.

**121.** Subject to the conclusions of further discussions on the audit and accountability arrangements, the Electoral Commission will continue to prepare one set of UK-wide accounts. Similarly, the accounts will continue to be audited by the Comptroller and Auditor General at a UK-level. However, the Senedd will be able to submit the audit report to the Auditor General for Wales, who will carry out a further examination of the Electoral Commission's accounts so far as they relate to the Electoral Commission's Welsh activities.

**122.** The amendments also provide for both the Electoral Commission and the Llywydd's Committee to prepare a report about their respective activities. The Electoral Commission's report must be prepared as soon as possible after the end of the financial year. The Llywydd's Committee must report at least once annually.

**123.** Another amendment proposed by the Counsel General was also agreed during the Stage 2 debate. It inserted a new schedule (Schedule 2) into the Senedd and Elections (Wales) Bill. Schedule 2 sets out the duties of the Electoral Commission to publish codes of practice about election expenses at devolved local government elections and on the attendance of observers at devolved elections in Wales.

**124.** Schedule 2 also sets out the duties of the Electoral Commission to keep under review, and report on, devolved Welsh elections, referendums and electoral law, and to set performance standards for electoral registration officers, returning officers and counting officers.

**125.** During the Stage 2 debate, the Counsel General stated that work would need to continue to ensure that the audit and accountability arrangements

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<sup>267</sup> If its resource requirements change throughout the year, the Electoral Commission may submit a revised estimate to the Llywydd's Committee. If it does, the scrutiny and approval arrangements set out in paragraphs 117 to 120 also apply.

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associated with financing the Electoral Commission directly from the Welsh Consolidated Fund are robust:

“I have agreed that the Government will support the Llywydd’s amendment 53A, which provides that the Electoral Commission will be funded directly from the Welsh consolidated fund. I will then work with the Llywydd, the Electoral Commission and our other partners over the coming months, to ensure that the audit and accountability arrangements for this funding route are robust enough to remove the risks I have previously identified.”<sup>268</sup>

**126.** The Counsel General stated that further discussions with the UK Treasury, National Audit Office and other bodies was required to ensure that the audit and accountability arrangements in the Bill were sufficient. The Welsh Ministers would commence the provisions in the Bill about the Electoral Commission by order once such arrangements were agreed or appropriate follow-up action to address this had been taken if required.

**127.** The Llywydd also tabled an amendment during Stage 2 that would give the Wales Audit Office the power to carry out ad-hoc value for money examinations of the Electoral Commission’s Welsh activities. During the Stage 2 debate, the Llywydd explained that:

“[...] the Assembly should have the power to commission discretionary examinations of the economy, efficiency and effectiveness—or ‘value for money’—with which the Electoral Commission has used its resources in Wales.”<sup>269</sup>

**128.** In response, the Counsel General stated that the Welsh Government was—

“comfortable with the principle behind the Llywydd’s amendment ... However, [Welsh Government is] concerned that this amendment could create a risk of duplicated examinations and conflicting recommendations from the Auditor General for Wales and the Comptroller and Auditor General. We believe that further consideration should be given as to how to mitigate this risk before that function is written into law. I am pleased that the Llywydd has agreed not to move this amendment at this stage, so that we can

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<sup>268</sup> National Assembly for Wales, **Committee of the Whole Assembly**, 9 October 2019

<sup>269</sup> Ibid.

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discuss it further and explore whether we can bring forward a version of this amendment at Stage 3.”<sup>270</sup>

**129.** During the Stage 2 debate, the Counsel General noted that some of the Electoral Commission’s future accounting and audit arrangements needed to be clarified. The Welsh Government committed to work with the Llywydd, the Electoral Commission, and other partners to make sure that the provisions that have been amended into the Bill at Stage 2 address all the necessary legislative changes to enable effective implementation.

**130.** An agreement between the Senedd, the Scottish Parliament and the House of Commons needs to be reached about how the Electoral Commission’s costs will be apportioned to each parliament. Agreement also needs to be reached about how the UK Speaker’s Committee’s role will change as a result of the Electoral Commission’s accountability to the Senedd and the Scottish Parliament. Welsh Government officials will need to agree arrangements with the UK Treasury about how Wales will be reimbursed by the UK Government for the cost of the Electoral Commission’s work in relation to Welsh activities.

**131.** As noted in paragraph 117, the Senedd will need to establish a Llywydd’s Committee to carry out the scrutiny of the Electoral Commission. The Bill as amended at Stage 2 sets out that the committee will be chaired by the Presiding Officer or Deputy Presiding Officer. Arrangements will also need to be made for Senedd Commission staff to support the committee with its work.

**132.** Amendments were tabled by the Counsel General and agreed by Members at Stage 2 to ensure that the provisions relating to the financing and accountability of the Electoral Commission will come into force “on a day appointed by the Welsh Ministers in an order made by statutory instrument”. During Stage 3, amendments were agreed to remove reference to some of the provisions applying for the first time in relation to the financial year beginning on or after 1 April 2021, thereby ensuring consistency with the commencement provisions.

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<sup>270</sup> Ibid.

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#### **26.2.4.2. Overview of effect of amendments on costs, benefits and savings**

**133.** In March 2019, the Electoral Commission estimated that the cost of devolved Welsh elections to be funded by the Senedd would be likely to be in the range of £0.7m for a non-election year to £1.6m in an election year (or £5.3m over a typical five year period).<sup>271</sup> Additional costs could also arise if the Welsh Government or the Senedd request the Electoral Commission to undertake any specific work, for example electoral pilots. These are the best estimates available. The final costs for the Electoral Commission's work will depend on the funding formula that is used to apportion the Electoral Commission's costs to the Welsh, Scottish and UK parliaments. This formula has not yet been agreed.

**134.** The Electoral Commission's activity in relation to devolved Welsh matters is currently financed by the Speaker's Committee. As a result of the amendments agreed at Stage 2, the cost of this activity would be borne by the Senedd. However, it is anticipated that this additional cost will be recovered from the UK Treasury as a part of the budget negotiation process. Therefore, even though the Senedd will be responsible for financing the Electoral Commission for its work in relation to devolved Welsh elections and referendums, there will be no significant net cost increase unless the Electoral Commission is directed to carry out additional duties by the Senedd.

**135.** There are also costs to the Senedd Commission of establishing a Llywydd's Committee and supporting the committee's work. The cost will depend on how often the Committee meets and the work that it carries out. On the basis of the work currently undertaken by the UK Speaker's Committee, which normally meets two or three times a year, the overall costs to the Senedd Commission are likely to be similar to those already set out in the EM on introduction. This is because although the frequency of committee scrutiny work related to the Electoral Commission would increase, the amount of work over a 5 year term would be similar to what was set out in the Explanatory Memorandum (approx. £39,200 over a five-year period).

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<sup>271</sup> Electoral Commission, **Evidence to the National Assembly for Wales Finance Committee Inquiry into the financial implications of the Senedd and Elections (Wales) Bill**, March 2019

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**136.** The RIA on introduction set out anticipated costs to the Electoral Commission of engaging with Senedd scrutiny. These were also based on 12 committee hours of scrutiny over a five-year period. This is within the same range as the number of scrutiny hours that the Llywydd's Committee is anticipated to undertake. Therefore, the Electoral Commission staff time required over a five-year period is likely to cost the same as set out in the RIA: £19,600 (which equates to £3,920 per annum).

**137.** In his letter to the chair of the Finance Committee, the Counsel General set out that there would be no net costs to the government as a result of the provisions:

“Our amendments place a duty on the relevant Senedd body to consult the Welsh Ministers on the Electoral Commission budget estimates, and on the Electoral Commission to consult the Welsh Ministers about codes of practice on attendance of observers at devolved elections in Wales and performance standards for devolved elections and referendums in Wales. Staff time will be required to provide advice to the Welsh Ministers about these matters. However, in practice, such activity would form part of the Welsh Government's “business as usual”. As such, for the purpose of this assessment, this cost is considered as £0.”<sup>272</sup>

**138.** The Wales Audit Office has carried out an assessment of the likely impact of the provisions amended into the Bill at Stage 2 on their resources. On the basis that the Electoral Commission is paid over 12 monthly instalments, the Wales Audit Office has estimated that approximately an additional:

- two hours (per year) of staff time will be required to approve Welsh Government's request to draw funds from the Welsh Consolidated Fund;
- two hours (per year) of staff time will be required to audit the additional transactions from the Welsh Consolidated Fund.

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<sup>272</sup> Welsh Government, [Letter from the Counsel General to the chair of the Finance Committee](#), 30 September 2019

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**139.** For the purpose of this update to the Explanatory Memorandum, the estimated cost of this work is £25 per hour, or £100 per year, or £500 over a five year period.

**140.** In practice, the Wales Audit Office has indicated that this work will be carried out by existing staff. Therefore there will be no real increase to the costs borne by the Wales Audit Office as a result of the provisions amended into the Senedd and Elections (Wales) Bill at Stage 2.

#### **26.2.4.3. Overview of other impacts**

**141.** It is unlikely that changes to the financing and accountability arrangements of the Electoral Commission that were made during Stage 2 will have any significant impact on any other impact assessments that were included in the Explanatory Memorandum to the Senedd and Elections (Wales) Bill on introduction.

#### **26.2.4.4. Report of the Auditor General on whether charges on the Welsh Consolidated Fund provided in the Senedd & Elections (Wales) Bill are appropriate:**

During stage 2 proceedings on 9 October 2019, the Assembly agreed an amendment to the Bill to enable the Electoral Commission's expenditure attributable to its functions in respect of devolved Welsh elections and referendums to be paid from the Welsh Consolidated Fund. The relevant provision of the amended Bill is section 28, which amends Schedule 1 to the Political Parties, Elections and Referendums Act 2000.

Under Standing Order 26.6 (xi), where a Bill contains any provision charging expenditure on the Fund, the Explanatory Memorandum must incorporate a report of the Auditor General setting out the Auditor General's views on whether the charge is appropriate. In the context of a consolidated fund, the term "charge" has a specific meaning: that sums are payable from the Fund without further authorisation.<sup>273</sup> (These charges are also often known as "direct charges"). Standing Order 26.6 (xi) is a safeguard against new legislation providing for such charges inappropriately.

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<sup>273</sup> Consolidated Fund -- Overview, Daniel Greenberg, Westlaw, 2019

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Under the provisions introduced by section 28 of the Bill, the Electoral Commission's estimates will be subject to scrutiny by the Llywydd's Committee and will be authorised by Budget resolution. I therefore do not consider payments made pursuant to those provisions to be charges for the purposes of Standing Order 26.6 (xi).

Nevertheless, as the Chair of the Finance Committee wrote to the Llywydd on 27 June 2019 suggesting discussion of these issues with the Auditor General, I think it is appropriate to set out my views on the appropriateness of the provisions.

The provision for payment from the Fund introduced by section 28 is without exact precedent in Wales, but I do not consider it problematic. As mentioned above, payments would be authorised by a Budget resolution, though not for the purposes of meeting expenditure of a "relevant person"<sup>274</sup> as has hitherto been the case with Budget resolutions. Instead, the authorisation would be for the purposes of meeting expenditure payable pursuant to a "relevant enactment". The Political Parties, Elections and Referendums Act 2000, as amended by the Bill, will be a relevant enactment. Sections 124(1)(b) and 124(2)(b) of the Government of Wales Act 2006 together provide for authorisation of payments in this way.

I consider that section 28's provision for a new committee, chaired by the Llywydd, to examine the Electoral Commission's estimates in respect of devolved activities to be a reasonable approach to ensuring appropriate provision for the Electoral Commission's devolved expenditure in the Budget resolution.

In any event, the sound administration of elections is a critical element of democracy, and I therefore consider that the provision for payment from the Fund introduced by section 28 of the Bill is appropriate.

Adrian Crompton  
Auditor General for Wales

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<sup>274</sup> As currently defined by section 124(3) of the Government of Wales Act 2006: the Welsh Ministers, the First Minister and the Counsel General, the Assembly Commission, the Wales Audit Office and the Public Services Ombudsman for Wales

### 26.2.5. Law Commission recommendations for rationalisation of electoral law

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**142.** The Bill on introduction contained provisions to enable Welsh Ministers to make subordinate legislation that give effect to Law Commission recommendations. Section 4.6 of the Explanatory Memorandum provides detail on the background of these provisions, their policy context, rationale for why they were considered necessary, and anticipated implementation.

#### **26.2.5.1. Overview of amendments and their rationale**

**143.** In its Stage 1 report on the general principles of the Bill, the Constitutional and Legislative Affairs Committee noted its concern at the potential use of subordinate legislation to implement significant policy changes. Specifically, the Committee considered it to be undesirable to confer powers on Welsh Ministers as provided for in section 36.

**144.** Consequently, at Stage 2, the Bill was amended to wholly remove these provisions. The Llywydd, who tabled the amendments to remove these provisions, stated during Stage 2 proceedings that:

“The evidence raised during Stage 1 has been supportive of the principle of reforming electoral law based on proposals from the Law Commission. However, the Assembly Commission appreciates concerns raised by both the Constitutional and Legislative Affairs Committee and the Counsel General regarding the propriety of addressing this issue through use of subordinate legislation-making powers. As such, I ask the Assembly to support my amendment 3 to remove section 36 of the Bill, and my amendments 27 and 1, which are consequential. I look forward to the Welsh Government pursuing in due course the Counsel General’s preferred approach of addressing Law Commission recommendations through an expedited primary legislation procedure.”<sup>275</sup>

**145.** In response, the Counsel General stated that he considered that:

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<sup>275</sup> National Assembly for Wales, **Committee of the Whole Assembly**, 9 October 2019

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“Law Commission recommendations for reform of electoral law, or indeed any law, should, if these are supported generally, be introduced using primary legislation, with the Senedd determining the appropriate procedure to be used. The Business Committee and the Constitutional and Legislative Affairs Committee are considering a suitable procedure for consolidation Bills that I hope will be agreed in due course.”<sup>276</sup>

### **26.2.5.2. Overview of effects of amendments on costs, benefits and savings**

**146.** Paragraph 642 of the Explanatory Memorandum details that providing a subordinate legislation-making power was not identified as directly giving rise to any additional costs or savings. It follows that not providing this power likewise does not directly give rise to any additional costs or savings.

**147.** A number of intended benefits arising from the inclusion of these provisions in the Bill were identified in paragraph 649 of the Explanatory Memorandum. It follows that these will not be achieved as a result of these provisions being removed from the Bill. However, it may be considered that discussions of the Bill at Stages 1 and 2 have in themselves partially achieved one of the intended benefits, namely: ‘highlighting the importance of the Law Commission’s work to the arrangements for Assembly elections, so that the Assembly, its Members and committees give proper consideration to these recommendations.’

### **26.2.5.3. Overview of other impacts**

**148.** Part 3 of the Explanatory Memorandum sets out a range of impact assessments conducted in relation to the Bill (as introduced). With one exception, these detail that no direct impacts were identified from the inclusion of power within the Bill to enable the implementation of Law Commission recommendations on the rationalisation of electoral law. It follows that the removal of such provisions similarly will not have direct impacts.

**149.** One exception to this is the official languages impact assessment. Paragraph 910 of the Explanatory Memorandum comments that if the Welsh Government chose to use the enabling power provided by the Bill (as introduced) to rationalise the current laws relating to Welsh elections into a

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<sup>276</sup> Ibid.

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single, consistent legislative framework, this could make the law more accessible in both Welsh and English. However, the removal of these provisions does not necessarily have a negative impact on the two official languages. This is on the basis that if the Welsh Government wishes to implement Law Commission recommendations to rationalise legislation, it could still do so via primary legislation which would be in Welsh and English.

#### 26.2.6. Date of first meeting

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**150.** The *GOWA 2006* currently provides that this first meeting must take place within a period of seven days following an ordinary or extraordinary general election. At that first meeting the Assembly must elect one of its Members as Llywydd and one as Deputy Presiding Officer.

**151.** On introduction, the Senedd and Elections (Wales) Bill included provisions to extend the deadline for the first meeting of the Senedd to be within a period of fourteen days following an ordinary or extraordinary general election.

**152.** The Bill was amended at Stage 2 to provide for a consistent deadline of fourteen days in circumstances whereby the date of an election was changed.

**153.** Section 4 of the *GOWA 2006* provides a power for the Presiding Officer to vary the date of an Senedd election to a day which is not more than one month earlier, nor more than one month later, than the first Thursday in May. Section 4 of the *GOWA 2006* currently also states that if this power is used, the first meeting of the Senedd takes place within a period of seven days following the election. Section 4 was not addressed in the original provisions of the Bill, but is now addressed in the amended provisions of the Bill following Stage 2. This ensures that there is consistently a 14 day deadline for the first meeting of the Senedd, regardless of whether the date of an election is varied or not.

#### 26.2.7. Regulations and miscellaneous

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**154.** On introduction, section 28 of the Bill set out general provisions relating to the scope of regulations made under Part 3 of the Bill (Elections) and the procedures applicable to them.

**155.** During Stage 2, amendments were agreed that:

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- moved the regulation-making power to a different part of the Bill;
  - allowed regulations to be made relating to parts of the Bill in addition to those related to the electoral franchise;
  - allowed regulations to be made for the purposes of, or giving full effect to the provisions of, the Bill; and
  - allowed regulations to be made to amend, modify, repeal or revoke any enactment, including provisions of the Bill.

**156.** The Counsel General, who had tabled these amendments, stated that:

“there are a number of reasons why the Government considers it necessary and appropriate to include such a power. These include proposals for canvass reform. Separate proposals to amend the canvass by secondary legislation may mean a power may be necessary in order to consequentially amend the Senedd and Elections (Wales) Act or other relevant legislation. Existing canvass regulations are amended as a result of the franchise changes in the Senedd and elections Bill. These regulations are due to be replaced very soon. Therefore, a secondary legislative power is sought that would be wide enough to amend the statute book to give full effect to the franchise change included in the Senedd Bill. It may also be that the Welsh Ministers rely on this power to make any changes necessary in consequence or incidental to the disqualification provisions in Part 4 of, and Schedule 2 to, the Bill.”<sup>277</sup>

**157.** The use of the regulation-making powers provided for by these amendments, and the timing of any such use, is a matter for the Welsh Ministers. Any subordinate legislation introduced will be subject to the usual requirements for the preparation of impact assessments and explanatory memoranda, as well as to scrutiny by the Senedd and its committees. These costs are, therefore, currently unknown.

**158.** An amendment was tabled by the Counsel General and agreed at Stage 3 which requires the Welsh Ministers to prepare and publish a report within 5 years of the expected date of the next Assembly election (i.e. 5 April 2021) on the operations of provisions in the Bill that:

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<sup>277</sup> National Assembly for Wales, **Committee of the Whole Assembly**, 9 October 2019

- 
- Extend the right to vote in Assembly elections to 16 and 17 year olds and qualifying foreign citizens;
  - Allow qualifying foreign citizens to be Members of the Assembly; and
  - Disqualify local authority members from being Members of the Assembly.

**159.** This amendment was tabled by the Counsel General in response to amendments tabled by other Members that required separate reports on the operation of the Bill's provisions relating to the above.

**160.** No changes have been identified as arising from these amendments from the various impact assessments detailed in the Explanatory Memorandum.

## 26.3. Revised summary of the Bill's Regulatory Impact Assessment as a result of amendments made to the Bill

**161.** Chapter 7 provides an overview of the Bill's Regulatory Impact at the time of Introduction. As detailed in the above sections, some amendments to the Bill have resulted in variations in the costs or benefits originally anticipated. A summary of the amended Bill's Regulatory Impact Assessment, taking these variations into account, is set out below as tracked changes to the original assessment.

**Table 43 Revised summary of the Bill's Regulatory Impact Assessment**

| Senedd and Elections (Wales) Bill  |   |  |
|--|---|--|
| Preferred option:<br>Introduce legislation to:   |   |  |
| <ul style="list-style-type: none"> <li>change the name of the institution from the National Assembly for Wales (Cynulliad Cenedlaethol Cymru) to <u>Senedd Cymru or Welsh Parliament</u>, and make consequential changes to relevant names, titles and descriptors;</li> <li>extend the Assembly franchise to allow 16- and 17-year olds <u>and qualifying foreign citizens</u> to be able to register and vote in Assembly elections;</li> <li>make technical amendments to the way in which disqualification from being a Member operates, and amendments to disqualifying offices;</li> <li><del>place a duty on the Assembly to consider the</del> <u>amend the</u> financial and oversight arrangements for the work of the Electoral Commission in relation to devolved Welsh elections and devolved referendums; <u>and</u></li> <li><del>give Welsh Ministers an enabling power to make such subordinate legislation as is required to ensure that elections in Wales are administered in a way that is compliant with the recommendations for electoral administration which the Law Commissions may make in due course; and</del></li> <li>extend the period after an election within which the Assembly must hold its first meeting, and clarify the provisions in the <i>GOWA 2006</i> enabling the Assembly Commission to charge for services which are not connected to the Assembly's functions.</li> </ul> |   |  |
| Stage:<br><u>Introduction As passed</u>  | Appraisal period:<br>2020-21 - 2024-25            | Price base year:<br>2018-19  |
| Total increased cost:<br>Total cost: <u>£2,757,600</u>   | Total benefits:<br>Total: £0<br>Present value: £0 | Net present value (NPV):<br><del>£2,701,500</del><br><u>£3,100,700</u> |

|                                      |  |  |
|--------------------------------------|--|--|
| <u>£3,181,800<sup>278</sup></u>      |  |  |
| Present value: <del>£2,701,500</del> |  |  |
| <u>£3,100,700</u>                    |  |  |

## 26.4. Administrative, compliance and other costs

### 26.4.1. Ongoing costs

**162.** The Bill is expected to result in increased ongoing administrative costs over a five-year period for the following organisations:

- Local authorities: ~~£421,000~~ £622,500<sup>279</sup>;
- Welsh Government: ~~£153,900~~ £227,500;
- National Assembly for Wales Commission: £41,300;
- Electoral Commission: £19,600;
- Wales Audit Office: £500.

**163.** This is a total of ~~£635,800~~ £911,400.

**164.** There are also a number of ongoing costs associated with activities which are “impacted upon” by the Bill, but which do not result in changed costs. In particular, costs related to maintaining a stock of stationery for Members (£475,000), replacement of Members’ signage, banners and web domains (£14,200) and the processing of Members’ claims for those (£500), replacement of mats and carpets on the Assembly estate (£13,600) and maintaining Assembly website domain names and security certificates (£1,500). These costs, all falling on the Assembly Commission, are considered

<sup>278</sup> See in footnote 279 an explanation of part of this cost increase

<sup>279</sup> The increase in ongoing costs for local authorities over a 5 year period was undercalculated in the EM published after Stage 2 of the Bill’s legislative passage, and has been corrected in this final version. The difference between the two versions’ costs is not due to amendments passed at Stage 3. The EM published after Stage 2 correctly identified (in table 40) an annual additional cost of £40,260 arising from the annual registration of newly enfranchised foreign citizens. Over a five-year period, this annual cost would amount to a total of £201,500 (i.e. £40,300 x 5). However, in the summary of costs over 5 years this was undercalculated as increasing costs from £421,000 to only £461,300. The figure has been corrected to £622,500 (reflecting that the additional cost of £40,260 applies in every year of a 5 year period, rather than only once in a 5 year period). The total cost and net present value of the Bill (in table 43) have also been adjusted to take account of this correction.

to be the same, regardless of whether or not legislation takes place. The total of these costs is estimated to be £504,800.

**165.** The “gross” ongoing cost of legislating, when combined with costs that would arise regardless of whether or not legislation took place, is therefore ~~£1,140,600~~ £1,255,000.

#### 26.4.2. Transitional costs

**166.** The Bill is also expected to result in transitional costs for the following organisations:

- Local authorities: £1,582,500;
- Electoral Commission: ~~£155,400~~ £191,700;
- Welsh Government: ~~£63,200~~ £178,000;
- National Assembly for Wales Commission: ~~£320,700~~ £318,200.

| Transitional:         | Ongoing:            | Total:                | Present Value:        |
|-----------------------|---------------------|-----------------------|-----------------------|
| <del>£2,121,800</del> | <del>£635,800</del> | <del>£2,757,600</del> | <del>£2,701,500</del> |
| <u>£2,270,400</u>     | <u>£911,400</u>     | <u>£3,181,800</u>     | <u>£3,100,700</u>     |

**167.** The Bill is not expected to result in any compliance costs, and no other relevant costs have been identified as a result of the Bill.

#### 26.5. Cost savings

**168.** The Bill is not expected to result in significant quantified savings. A saving of up to £600 for the Assembly Commission has been identified as a possible result of provisions that will extend the deadline for the first Assembly meeting after an election.

**169.** It is possible that savings could be made as a result of provisions that make technical amendments to the way in which disqualification from being a Member operates. However, those potential savings are unknown as a high degree of uncertainty is associated with them.

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**170.**

| Transitional: | Ongoing: | Total: | Present Value: |
|---------------|----------|--------|----------------|
| £0            | £600     | £600   | £600           |

## 26.6. Net administrative cost

**171.** The Bill is therefore expected to result in a net administrative cost of ~~£2,757,000~~ £3,181,200.

## 26.7. Benefits and dis-benefits that cannot be quantified financially

**172.** The Bill is expected to lead to a range of benefits, many of which that cannot be quantified financially. For example, changing the Assembly's name would give rise to benefits in terms of public understanding of the role, responsibilities and powers of the institution, and its place in the UK's constitutional landscape. However, no measure exists in order to quantify this financially.

**173.** Full consideration of the benefits in relation to each preferred option is included in the RIA detail.

## 26.8. Cost benefits

**174.** No specific cost benefits as a result of the Bill have been identified.

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## 27. Revised Explanatory Notes

# SENEDD AND ELECTIONS (WALES) ACT 2020

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## EXPLANATORY NOTES

### INTRODUCTION

122. 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.
123. 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

124. 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.
125. 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

126. 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”.

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

127. 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”. 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**

128. 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**

129. 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**

130. 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**

131. 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**

132. 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**

133. 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*

134. 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

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Acts and regulations in this Part have effect only for the purposes of an election for membership of the Senedd.

135. 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**

136. 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.
137. Section 10 amends section 12 of the Government of Wales Act 2006 (“the 2006 Act”), which sets out who may vote at Senedd elections.
138. 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.
139. 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**

140. 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.
141. Section 12 also amends section 203(1) of the 1983 Act to include a definition of “qualifying foreign citizen”.

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

142. 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.
143. 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.
144. 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

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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.

145. 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**

146. 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.
147. 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.
148. 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.
149. 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.
150. 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**

151. 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**

152. Section 16 makes a number of amendments to the 2001 Regulations in relation to applications for registration of local government electors in Wales.
153. 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.
154. 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.

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155. 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.
  156. 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.
  157. 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.
  158. 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.
  159. 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.
  160. 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.
  161. 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**

162. 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.
163. 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.
164. 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.

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

165. 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**

166. Section 19 amends section 7B of the 1983 Act in relation to the registration of local government electors in Wales.
167. 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.
168. 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.
169. 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.
170. 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.
171. 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.
172. Section 19(5) also makes provision about how declarations of local connection should be marked on the register.

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

173. 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

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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).

174. 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.
175. 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.
176. Section 20(4) amends section 16 of the 1983 Act which makes provision about the contents of a service declaration.
177. 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.
178. Section 20(5)(a) amends section 17 of the 1983 Act to add reference to qualifying foreign citizens.
179. 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**

180. 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.
181. 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.
182. 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.

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

183. Section 22 makes further provision about service declarations in amendments to the 2001 regulations.
184. 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.
185. 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.
186. 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**

187. 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.
188. 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**

189. 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**

190. Section 25 sets out the circumstances under which a young person’s information may be disclosed.
191. 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.
192. 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).

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

193. 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.
194. 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.
195. 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.
196. 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**

197. 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.
198. 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**

199. 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.
200. 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.

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201. If it is not so satisfied, the Llywydd's Committee must amend the estimate as it considers appropriate before laying it before the Senedd.
202. 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.
203. 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.
204. 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.
205. 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.
206. 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.

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## Schedule 2

### **ELECTORAL COMMISSION: FURTHER AMENDMENTS**

207. 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”).
208. 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.
209. 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.
210. If no resolution is made, the Welsh Ministers must issue the Code in the form of the draft laid before the Senedd.
211. Schedule 2 also inserts three new sections into PERA.
212. 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.
213. 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.
214. 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.
215. The Schedule also makes consequential amendments to reflect the provisions set out above.

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## **PART 4**

### **DISQUALIFICATION**

216. 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.
217. 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.
218. 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.
219. 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.
220. 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**

221. 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.
222. 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).
223. 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.
224. 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.

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225. 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.
226. 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**

227. 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.
228. 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**

229. 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".
230. 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.
231. 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**

232. 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.

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233. 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.
234. 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.
235. 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.
236. 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**

237. 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.
238. 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.
239. 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.
240. 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
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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.

241. 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**

242. 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.
243. 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**

244. 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**

245. 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.
246. 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**

247. 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**

248. 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**

249. 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;

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- 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.

250. The report must be prepared and published within six months of the end of the reporting period.
251. 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**

252. Subsection (1) sets out the provisions of the Act that come into force on the day on which the Act receives Royal Assent.
253. 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.
254. 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.
255. 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.
256. 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.

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## RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES

257. The following table sets out the dates for each stage of the Act's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales' website at: <http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=23754>

| <b>Stage</b>                                 | <b>Date</b>      |
|--|------------------|
| <b>Introduced</b>                            | 12 February 2019 |
| <b>Stage 1 - Debate</b>                      | 10 July 2019     |
| <b>Stage 2 - consideration of amendments</b> | 9 October 2019   |
| <b>Stage 3 - consideration of amendments</b> | 13 November 2019 |
| <b>Stage 4 - Approved by the Assembly</b>    | 27 November 2019 |
| <b>Royal Assent</b>                          | 15 January 2020  |