

SL(5)675 – The Senedd Cymru (Representation of the People) (Amendment) Order 2020

Background and Purpose

The National Assembly for Wales (Representation of the People) Order 2007 (“the 2007 Order”) sets out detailed rules for the conduct of elections to Senedd Cymru.

This Order amends the 2007 Order to reflect policy and legislative changes which have taken place since the 2016 Senedd general election in preparation for the 2021 Senedd general election.

In particular, this Order:

- implements changes arising as a result of the name change, extension of the franchise and disqualification criteria introduced by the Senedd and Elections (Wales) Act 2020,
- gives candidates the option of not publishing their home address at Senedd elections, and
- makes changes to the manner in which payment is made to returning officers for services rendered.

Procedure

Draft Affirmative.

Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

The definition inserted by article 3(3) refers to “*the Senedd Cymru*” [*emphasis added*]. It appears that the inclusion of the definite article is erroneous, as the Government of Wales Act 2006 refers to “Senedd Cymru” throughout, without “the” preceding it.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Articles 43(b) and 44(2)(a)(ii) refer to section 16 of the Government of Wales Act 2006. In both instances, the heading to section 16 is described as “(disqualification from being Senedd member)” but the heading actually reads “(disqualification from being a Member of



the Senedd)". The same error is also made in the first paragraph on page 3 of the Explanatory Note.

3. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Article 53(9) modifies article 23(8) of the 2007 Order by substituting "Assembly" in each place it occurs with "Welsh Ministers". However, the first occurrence of "Assembly" in paragraph (8) relates to Assembly elections.

The effect of the provision as drafted is that part of the wording of paragraph (8) reads "*a returning officer's charges at an Welsh Ministers election [sic]*".

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts.

In the Welsh language version of the Order, article 3 has been numbered incorrectly, and is therefore inconsistent with the numbering in article 3 of the English language version.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3 in respect of this instrument:

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues or public policy likely to be of interest to the Senedd

Schedule 10 (appendix of forms) to the 2007 Order contains both English and Welsh language forms. We ask why the English language version of this Order amends only the English language forms, and the Welsh language version amends only the Welsh language forms, as the forms in both languages are contained in a single instrument. It could appear to the reader that the forms are only amended in one language, depending on which version they read.

The Committee notes that although article 4 of this Order does state that the amendments are made to both the Welsh and English language text of the forms, articles 39, 47 and 57 do not contain similar statements to that effect.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues or public policy likely to be of interest to the Senedd

The Committee notes that no Regulatory Impact Assessment has been carried out. In particular, we note the following paragraph in the Explanatory Memorandum:

"These amendments are mainly based on policies which have already been subject to substantive consultation and debate. Where policies were considered in the Regulatory Impact Assessments for the Senedd and Elections (Wales) Act 2020 and the Local



Government and Elections (Wales) Bill, in the absence of any additional or alternative evidence, we did not consider it to be necessary to carry out those assessments again."

The Committee welcomes the inclusion in the Explanatory Memorandum of links to the Regulatory Impact Assessments mentioned above, as this provides a helpful aid to the reader.

Implications arising from exiting the European Union

None.

Welsh Government response

Technical Scrutiny point:

1. Standing Order 21.2(vi) and Standing Order 21.2 (vii)

In respect of the 4 technical scrutiny points raised by the Committee, while these are strictly technical in nature, I have determined that the order will be withdrawn and re-laid having addressed the points raised.

Merits Scrutiny point:

1. Standing Order 21.3(ii)

All the forms have been amended in both Welsh and English. Whilst we appreciate that the English language version of this Order amends only the English language forms, and the Welsh language version amends only the Welsh language forms, we are nevertheless satisfied that the relevant changes have been made to both the Welsh language text and the English language text of the forms and that the forms as amended are sufficient for the purposes of the Senedd 2021 election.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 7 December 2020 and reports to the Senedd in line with the reporting points above. In addition, the Committee noted that the Order would be withdrawn and re-laid.

