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Welsh Elections (Coronavirus) Bill

[AS INTRODUCED]

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Welsh Elections (Coronavirus) Bill

[AS INTRODUCED]

An Act of Senedd Cymru to provide for measures relating to protection against coronavirus to apply to Senedd Cymru elections and local government elections.

Having been passed by Senedd Cymru and having received the assent of Her Majesty, it is enacted as follows:

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Main provisions

1 The 2021 election

In this Act, “the 2021 election” means the ordinary general election for membership of Senedd Cymru the poll for which is due to be held in 2021.

2 Application of provisions of Government of Wales Act 2006

- 10 (1) Subsections (2) to (4) of section 3 of the 2006 Act (dissolution of Senedd Cymru before an ordinary general election and date of first meeting after the election) do not apply to the 2021 election.
- (2) Section 3(1) of the 2006 Act (day on which the poll at an ordinary general election is held) has effect subject to the provisions of section 5.
- 15 (3) Section 4(2)(c) of the 2006 Act (period within which Senedd Cymru must meet where the day of poll is varied by proclamation) does not apply to the 2021 election.
- (4) Section 10 of the 2006 Act (constituency vacancies) has effect subject to the provisions of section 7.

3 Dissolution of the current Senedd

- 20 (1) For the purpose of the holding of the poll for the 2021 election, Senedd Cymru is dissolved on 29 April 2021, unless –
- (a) the Llywydd exercises the power conferred by section 5 (power to postpone 2021 election for up to 6 months), or
- (b) Her Majesty dissolves Senedd Cymru before that day by proclamation under
- 25 section 4(2) of the 2006 Act (power to vary date of Senedd ordinary general election).
- (2) If the Llywydd exercises the power conferred by section 5, Senedd Cymru is dissolved at the beginning of the period of 7 days that ends immediately before the day fixed for the holding of the poll, unless subsection (3) applies.
- 30 (3) This subsection applies where, before the day on which Senedd Cymru is due to be dissolved in accordance with subsection (2), the Llywydd exercises the power conferred by section 5 again (and, accordingly, subsection (2) applies to that exercise of the power in turn).

4 Date of first meeting after the 2021 election

Senedd Cymru must meet within the period of 21 days beginning immediately after the day on which the poll for the 2021 election is held.

5 Power to postpone 2021 election for up to 6 months

(1) The First Minister for Wales (“the First Minister”) may propose to the Llywydd that the poll for the 2021 election is postponed if, for a reason relating to coronavirus, the First Minister considers it necessary or appropriate to do so.

(2) Following a proposal from the First Minister, the Llywydd may fix a day for the holding of the poll for the 2021 election if—

(a) Senedd Cymru approves the day to be fixed by a resolution passed on a vote in which the number of Senedd Members voting in favour of it is not less than two-thirds of the total number of Senedd seats, and

(b) Senedd Cymru has not been dissolved.

(3) When fixing a day for the holding of the poll the Llywydd—

(a) must fix a day that is the earliest day the Llywydd considers to be reasonably practicable;

(b) must not fix a day that is after 5 November 2021.

(4) As soon as reasonably practicable after fixing a day for the holding of the poll, the Llywydd must lay before Senedd Cymru a statement of—

(a) the day fixed for the holding of the poll, and

(b) the reason for the exercise of the power to fix a day.

(5) The Electoral Commission must provide advice in relation to postponement of the poll if requested to do so by the Llywydd or the First Minister.

(6) The powers in subsections (1) and (2) may be exercised more than once.

(7) Nothing in this section limits the power in section 4 of the 2006 Act to vary the date of an ordinary general election for membership of Senedd Cymru.

6 Further power to vary date of 2021 election

(1) This section applies if the day for the holding of the poll of the 2021 election is fixed under section 5.

(2) The Llywydd may propose, for the holding of the poll, a day which is not more than one month earlier, nor more than one month later, than the day fixed under section 5.

(3) The power under subsection (2) may not be exercised so as to propose a date after 5 November 2021.

(4) If the Llywydd proposes a day under subsection (2), Her Majesty may by proclamation under the Welsh Seal—

(a) dissolve Senedd Cymru;

(b) require the poll at the election to be held on the day proposed.

7 Power to postpone Senedd by-elections

- (1) This section applies after 6 May 2021 where an election is to be held under section 10 of the 2006 Act to fill a vacant constituency member seat (“a Senedd by-election”).
- (2) The Llywydd may fix a date for the holding of the poll for a Senedd by-election that is outside the period required under section 10(5) or (6) of the 2006 Act.
- (3) When fixing a day under subsection (2), the Llywydd must fix a day that is the earliest day the Llywydd considers to be reasonably practicable.
- (4) The power under subsection (2) –
 - (a) may be exercised more than once, and
 - (b) may not be exercised so as to fix a date after 5 November 2021.
- (5) Before exercising the power under subsection (2), the Llywydd must consult the Welsh Ministers.

8 Power to postpone local authority by-elections

- (1) The Welsh Ministers may, by regulations made by statutory instrument, provide –
 - (a) that the poll for a local authority by-election is to be held on a date, or within a period, specified in the regulations;
 - (b) that the poll for a local authority by-election that would otherwise be required to be held on a date that falls within a period specified in the regulations is instead to be held on a later date, or within another period, specified in the regulations.
- (2) In this section, a “local authority by-election” is an election where –
 - (a) the date of the poll for the election falls within the period beginning with 6 May 2021 and ending with 5 November 2021, and
 - (b) it is an election to fill a casual vacancy in the office of councillor in a county council, county borough council or community council in Wales.
- (3) Regulations under subsection (1) must not specify –
 - (a) a date after 5 November 2021, or
 - (b) a period ending after 5 November 2021.
- (4) The power to make regulations under subsection (1) may be exercised more than once in respect of any local authority by-election.
- (5) Regulations under subsection (1) may make provision by reference to local authority by-elections of a description specified in the regulations (for example, by reference to the nature, date or location of the elections).
- (6) The power to make regulations under subsection (1) includes the power to amend, modify, repeal or revoke any enactment.
- (7) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of Senedd Cymru.

*Supplementary***9 Effect of this Act on existing power to make provision about elections**

This Act does not affect the power of the Welsh Ministers to make an order under section 13 of the 2006 Act.

10 Modification of the 2007 Order

- (1) The 2007 Order is modified in relation to the 2021 election as follows.
- (2) Article 2(1) (interpretation) has effect as if it contained the definition of “coronavirus” given by section 11.
- (3) In Article 84(2)(b) (timing of when a person becomes a candidate in relation to a Senedd general election) has effect as if –
 - (a) for “any subsequent Assembly election” there were substituted “the ordinary general election for membership of Senedd Cymru the poll for which is, on the day on which this provision comes into force, due to be held on 6 May 2021”;
 - (b) in paragraph (i), for sub-paragraph (aa) there were substituted –
 - “(aa) which is 21 days before 6 May 2021, computed in accordance with rule 2 of the rules set out in Schedule 5;”.
- (4) In Schedule 1, paragraph 7 (closing date for applications for absent voting at Senedd elections) has effect as if –
 - (a) in sub-paragraph (3) after paragraph (aa) there were inserted –
 - “(ab) on grounds that –
 - (i) the applicant’s circumstances on the date of the poll will be or are likely to be such that the applicant could not reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant under this Order as a result of the need to comply with an enactment relating to coronavirus or to follow guidance relating to coronavirus issued by the Welsh Ministers, and
 - (ii) the applicant became aware of the grounds after 5 pm on the sixth day before the date of the poll at the election for which it is made;”;
 - (b) in sub-paragraph (5) for “The” there were substituted “Subject to sub-paragraph (5AA), the”;
 - (c) after sub-paragraph (5) there were inserted –
 - “(5AA) Where –
 - (a) an application under article 8(5)(a) by an elector to be removed from the record kept under article 8(3);

(b) an application under article 12(10)(a) by a proxy to be removed from the record kept under article 12(6); and

(c) a notice under article 11(9) by an elector of the cancellation of a proxy's appointment,

is made on the grounds set out in sub-paragraph (5AB) the application or notice shall be disregarded if it is received after 5 pm on the day of the poll at the election for which it is made.

(5AB) The grounds are that—

(a) the application or notice is made as a result of the need to comply with an enactment relating to coronavirus or to follow guidance relating to coronavirus issued by the Welsh Ministers, and

(b) the elector or proxy became aware of the grounds after 5 pm on the eleventh day before the date of the poll at the election for which it is made."

(5) In Schedule 5 (Senedd election rules)—

(a) rule 1(1) (timetable for conduct of proceedings at a Senedd election), in the table, in the column headed "Time", the entry corresponding to the entry "Delivery of nomination papers." has effect as if—

(i) the reference to "10" were substituted by "9";

(ii) the reference to "4" were substituted by "5".

(b) rule 4 (nomination of candidates at a Senedd constituency election) has effect as if after paragraph (1) there were inserted—

"(1A) The constituency nomination paper may also be delivered on the candidate's behalf by a person authorised by the candidate for the purpose if the candidate has given the person's name and address to the returning officer in writing or electronically before or at the time the paper is delivered."

(c) rule 6 (nomination of individual candidates at a Senedd regional election) has effect as if after paragraph (1) there were inserted—

"(1A) The individual nomination paper may also be delivered on the candidate's behalf by a person authorised by the candidate for the purpose if the candidate has given the person's name and address to the returning officer in writing or electronically before or at the time the paper is delivered."

(d) rule 9(1) (consent to nomination at a Senedd constituency election) has effect as if—

(i) sub-paragraph (b) were omitted;

(ii) for sub-paragraph (c) there were substituted—

"(c) is delivered at the place for the delivery of nomination papers or is delivered electronically to an electronic address for that purpose; and

(d) is delivered within the time specified for the delivery of the nomination papers.”

(e) rule 9(2) (consent to nomination at a Senedd regional election) has effect as if –

(i) sub-paragraph (b) were omitted;

(ii) for sub-paragraph (c) there were substituted –

“(c) is delivered at the place for the delivery of individual nomination papers or party nomination papers, or is delivered electronically to an electronic address for that purpose; and

(d) is delivered within the time specified for the delivery of the nomination papers.”

General

11 Interpretation

In this Act –

“the 2006 Act” (“*Deddf 2006*”) means the Government of Wales Act 2006 (c. 32);

“the 2007 Order” (“*Gorchymyn 2007*”) means the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236);

“the 2021 election” (“*etholiad 2021*”) has the meaning given by section 1;

“coronavirus” (“*coronafirws*”) means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“the Llywydd” means the Presiding Officer of Senedd Cymru.

12 Power to make consequential and transitional provision etc.

(1) If the Welsh Ministers consider it necessary or appropriate for the purposes of, in consequence of, or for giving full effect to any provision of this Act or provision made under it, they may by regulations made by statutory instrument make –

(a) supplementary, incidental or consequential provision;

(b) transitional, transitory or saving provision.

(2) Regulations under subsection (1) may –

(a) make retrospective provision in relation to a local authority by-election within the meaning given by section 8(2), including provision having effect in relation to times before the coming into force of this Act;

(b) amend, modify, repeal or revoke any enactment (including provision contained in this Act);

(c) make different provision for different purposes or areas.

(3) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of Senedd Cymru.

13 Coming into force

This Act comes into force on the day after the day on which this Act receives Royal Assent.

14 Short title

5 The short title of this Act is the Welsh Elections (Coronavirus) Act 2021.