

EMERGENCY BILL STATEMENT BY THE WELSH GOVERNMENT

TITLE	Statement in support of treating the Welsh Elections (Coronavirus) Bill as an Emergency Bill
DATE	19 January 2021
BY	Minister for Housing and Local Government

This statement is made alongside tabling a motion to propose that the Welsh Elections (Coronavirus) Bill be treated as an Emergency Bill, in accordance with Standing Order 26.95A.

Since the emergence of the coronavirus pandemic, the Welsh Government has been proactive in addressing the implications for elections in Wales. We sought powers in the Coronavirus Act 2020 to ensure Senedd and local by elections could be postponed. And we convened an Elections Planning Group comprising the Welsh and UK Governments, political parties, Returning Officers, electoral administrators, the Electoral Commission and other partners and stakeholders to consider the impact of the coronavirus pandemic on the administration of the 2021 Senedd general election.

The Senedd Cymru ordinary general election is due to take place on 6 May 2021. The coronavirus pandemic is likely to have an impact on this election, the extent of which will depend on the prevalence of coronavirus ahead of and at the time of the election.

The Government's firm intention is that the election will proceed on 6 May. But it is prudent to ensure that contingency arrangements are in place in the event that the pandemic presents a serious threat to public health and the conduct of the election.

Due to the unpredictable nature of the circumstances we find ourselves in, we have prepared a Bill to make provision for the election to be postponed if absolutely necessary in these exceptional circumstances. The Bill will also ensure appropriate measures are put in place for the safe conduct of the election. The Welsh Elections (Coronavirus) Bill makes provision to respond to the potential risks to the ordinary general election for membership of Senedd Cymru arising from the pandemic with the objective of ensuring the election can be administered and proceed safely and that the electorate can participate and vote. In terms of the Senedd, the provisions in the Bill will apply only for the ordinary general election due to be held on 6 May 2021 and will not apply to Senedd elections in any subsequent years.

The Bill also responds to the potential risks of coronavirus by enabling local government by-elections to be postponed beyond 6 May 2020 if required.

The Bill contains provisions that: -

- a. provide for a shorter dissolution period for the Senedd ahead of the day of the poll;
- b. protect the time within which the first meeting of the newly returned Senedd after the 2021 election must be held;
- c. provide a power for the Llywydd, following a proposal from the First Minister, to postpone the election from 6 May 2021 for a reason relating to the coronavirus pandemic to a date not later than 5th November 2021, and to fix a day for the poll if the Senedd agrees by a resolution passed by not less than two-thirds of the total number of Senedd seats – the Bill proposes a role for the Electoral Commission to provide advice on the matter of postponement if the Llywydd or the First Minister requests;
- d. ensure the Llywydd's existing power to vary the date of the 2021 election continues to apply to the ordinary general election if the date of the poll for the election is postponed;
- e. enable a by-election to fill a constituency vacancy that arises after 6 May 2021 to be held on a date fixed by the Llywydd following consultation with the Welsh Ministers to a date not later than 5 November 2021;
- f. enable a by-election to fill a vacancy for membership of a county council, county borough council or community council to be postponed to a date not later than 5 November 2021;
- g. make consequential modifications to the National Assembly for Wales (Representation of the People) Order 2007 (as amended); and
- h. confer a regulation-making power on the Welsh Ministers to make any incidental, supplementary, consequential, transitional, transitory or saving provisions that they consider appropriate for the purposes of, or in connection with, giving full effect to the Act.

We also continue to keep early voting in the Senedd election actively under review if the prevalence of the pandemic means it is simply not safe to hold the election in May as planned. In such exceptional circumstances, we must consider all options to enable voters to participate in the election.

The rules regarding the management of Senedd elections are set out in legislation, including the Government of Wales Act 2006. Making changes to these rules can require primary legislation and, by convention, any such changes should be in place 6 months prior to an election to allow sufficient time for arrangements to be made. Stakeholder engagement is therefore key in the ever changing coronavirus landscape.

So far, the trajectory of the pandemic has been difficult to predict and there is difficulty in knowing what the status of the pandemic will be when the election is due to take. The lack of flexibility available for making changes to electoral rules is not appropriate for

responding to the pandemic, which has so far required pace and pragmatism in responding quickly to a rapidly changing situation.

We therefore believe it is necessary to make use of the emergency Bill process to put legislation in place as soon as possible in time for the election in May. Were we to follow the normal Bill process, the legislation would not be passed in time for the election. We recognise that this is not ideal and would much prefer all legislation to be subject to the robust scrutiny procedures that normally apply, but the exceptional circumstances of a global pandemic which is unprecedented mean that this is not possible in the circumstances that we face.

This Bill enables a level of flexibility around the arrangements for the poll and allows for a contingency in the event of a worst case scenario coming to pass. The pandemic poses two risks to the integrity of the election: one to the ability of voters to participate in the poll; and a second to the ability of administrators to carry out the poll.

High infection rates carry with them serious risk of disenfranchising those who are required to self-isolate under coronavirus guidance. This will have a wider impact in those who are more at risk to exposure to and the effects of the virus. It is possible that a voter may be unable to attend a polling station at short notice and be too late to register for a postal vote and unable to arrange for a proxy vote. The Bill will extend proxy voting rules to include a requirement to self-isolate as a valid reason for an urgent proxy vote application, without a need for medical attestation. The extension of the Llywydd's power to move the date of the poll will also allow for a worst case scenario contingency. By delaying the poll, we allow more time to get the virus under control and to ensure safeguards are in place, which allows for more voters to participate in the election, thereby reducing disenfranchisement of the most vulnerable in society.

The estimated cost of the ordinary general election for membership of the Senedd scheduled for 6 May 2021 is £11.8 million. This compares with the cost incurred in 2016 of £7.5 million. There will be additional costs in the event of a single postponement, which could be as high as £9.9 million. These costs are difficult to predict and further detail will be set out in the Explanatory Memorandum.

Our planning in relation to the Senedd general election will continue to be informed by the overall public health position. We will continue to work with electoral administrators and stakeholders to ensure that polling stations and count venues are safe and secure, that guidance is available to those involved in the process and that voters are informed about ways they can exercise their vote if they are not able to attend a polling station in person, for example by applying for a postal vote.

We still consider that the responsible course is to plan for the election to take place on 6 May, whilst also, through this Bill, enabling its postponement, in an absolute worst case scenario, as a last resort.