

Explanatory Memorandum to the Senedd Cymru (Representation of the People) Order 2025

This Explanatory Memorandum has been prepared by the Elections Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Senedd Cymru (Representation of the People) Order 2025. I am satisfied that the benefits justify the likely costs.

Jane Bryant MS

Cabinet Secretary for Housing and Local Government

8 May 2025

PART 1

1. Description

- 1.1 The Senedd Cymru (Representation of the People) Order 2025, (“the Conduct Order”) makes provision for the conduct of elections to the Senedd. The Order provides for the manner in which the election and the election campaign are conducted, and for legal challenges to an election.
- 1.2 The Order updates and consolidates the existing provisions on the conduct of such elections contained in the National Assembly for Wales (Representation of the People) Order 2007 (“the 2007 Order”) and related amending orders listed at paragraph 2.3.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

- 2.1 The 2007 Order was originally made, and subsequently amended, by the Secretary of State before the function for making the Order was transferred to the Welsh Ministers by the Wales Act 2017.¹
- 2.2 The Conduct Order remakes and consolidates many of the provisions in the 2007 Order. The Order is also bilingual for the first time. The principles set out in the Legislation (Wales) Act 2019 have been followed to produce an order which uses modern and clear language which is accessible to the reader.
- 2.3 The Conduct Order consolidates the 2007 Order and the following amending orders - which were made ahead of elections to the National Assembly for Wales and Senedd Cymru (as applicable) to reflect any relevant policy or legislative changes since the previous election:
- The National Assembly for Wales (Representation of the People) (Amendment) Order 2010;
 - The National Assembly for Wales (Representation of the People) (Fresh Signatures for Absent Voters) Order 2013;
 - The National Assembly for Wales (Representation of the People) (Amendment) Order 2016;
 - The National Assembly for Wales (Representation of the People) (Amendment) (No 2) Order 2016;
 - The Senedd Cymru (Representation of the People) (Amendment) Order 2020; and
 - The Senedd Cymru (Representation of the People) (Amendment) Order 2021.

¹ Section 5(1). This substituted a new section 13 into the Government of Wales Act 2006 (power of the Welsh Ministers to make provision about elections etc).

2.4 The Conduct Order also implements legislative changes required by the Senedd Cymru (Members and Elections) Act 2024 and reflects changes made in the Elections and Elected Bodies (Wales) Act 2024.

3. Legislative background

3.1 The 2007 Order was made by the Secretary of State under Section 11 of the Government of Wales Act 1998. Section 13 of the Government of Wales Act 2006 (“the 2006 Act”) provided the Secretary of State with similar enabling powers. These enabling powers, in relation to the conduct of Senedd Cymru elections, were subsequently transferred to the Welsh Ministers by Section 5(1) of the Wales Act 2017.

3.2 Section 13 of the 2006 Act enables the Welsh Ministers to make an order containing provision about the conduct of Senedd elections, the questioning of such elections and the return of a member of the Senedd otherwise than at an election. This power is however, constrained by the scope of the Senedd’s legislative competence. Therefore, as far as possible within those constraints, the process governing the conduct of Senedd elections is restated and incorporated within the Conduct Order.

3.3 Section 13(2) of the 2006 Act clarifies the scope of the Welsh Ministers’ power to make provision as to the conduct of Senedd elections. Such provision may include provision about the registration of electors, the limitation of the election expenses of candidates and the creation of criminal offences in connection with the limitation of such expenses, and for the combination of polls.

3.4 Section 13 also provides that any order made under that section is subject to the affirmative resolution procedure of the Senedd.

3.5 The Conduct Order makes provision equivalent to that which applies to the conduct of Westminster Parliamentary elections, but provisions are adapted to fit the electoral system for the Senedd. Provisions in the Conduct Order are therefore similar to those found in the Representation of the People Act 1983, but with necessary modifications.

3.6 The rules contained in Schedule 5 to the Conduct Order, which deal with the running of Senedd elections, have been modernised, and particular attention has been paid to the Local Election Rules (consisting of the Local Elections (Principal Areas) (Wales) Rules 2021 and the Local Elections (Community Areas) (Wales) Rules 2021) in order to ensure an element of consistency in the electoral process for electoral administrators, candidates and the electorate. There will be a piece of work to consider what further amendments will be required to the Local Election Rules ahead of the 2027 elections to reflect the consolidated Conduct Order.

3.7 The next ordinary Senedd election is scheduled to take place on 7 May 2026. This Order is to be made so that that election is run under substantially consolidated legislation. As such it will be made before the

2026 Senedd elections, with the intention that it is in force in good time for those elections.

4. Purpose and intended effect of the legislation

4.1 In July 2021, Mick Antoniw MS, the then Counsel General and Minister for Constitution, set out the Welsh Government's principles of electoral reform. To contribute to the aim of developing a modern, accessible and bilingual body of law for Wales, the Conduct Order will be made bilingually.

4.2 The amending orders that exist mean that the current rules that govern the running of Senedd elections are fragmented and difficult to follow. The Welsh Government (WG) committed to consolidate the 2007 Order and amending orders ahead of the 2026 Senedd Elections as part of the consultation for the Senedd Cymru (Representation of the People) (Amendment) Order 2020. The WG, in response to consultation responses, confirmed its commitment to make the law in Wales accessible and easy to navigate, and set out its plans to review the 2007 Order further after the 2021 Senedd elections with a view to consolidating it in time for the 2026 elections. The WG committed that the consolidated Order would be made bilingually. It is the view of the WG that the consolidation of the elections orders before the 2026 election will make the legislation for Senedd elections more accessible and transparent.

4.3 This commitment was reaffirmed in the consultation on the electoral administration and reform White Paper, where the WG committed to consolidate and re-state the law as part of an accessible, bilingual framework for the first time, using modern and clear language which is accessible to the reader. There was a commitment to consult on and remake a bilingual consolidated Conduct Order ahead of the 2026 Senedd Elections.

4.4 In remaking the Conduct Order, any changes needed as a consequence of taking forward policy proposals outlined in the White Paper through the Elections and Elected Bodies (Wales) Act 2024 have been reflected. The Order also implements substantial legislative changes required by the Senedd Cymru (Members and Elections) Act 2024.

4.5 This instrument will replace the 2007 Order and its amending orders. The Explanatory Notes to the Conduct Order summarise its content and provide detail of where changes required as a result of the Senedd Cymru (Members and Elections) Act 2024 have been made.

4.6 It would present a considerable risk to the smooth running of the 2026 Senedd election if the Conduct Order is not made as anticipated in 2025.

Changes brought about by the Senedd Cymru (Members and Elections) Act 2024

- The Act makes provision to change the Senedd's electoral system so that all Members are elected via a closed proportional list system, with votes translated into seats via the d'Hondt formula. The Act provides for a move from the current system of only a third of members being elected through proportional lists, to a system of all members being elected through proportional lists. It moves away from single-member constituencies elected by first past the post system (FBTP), which overrepresent the largest vote share in that constituency.
- The list design introduced by the Act retains most of the elements of the current system for electing Regional Members set out in section 7 of the Government of Wales Act 2006 (as amended by the Act). This includes the ability of independent candidates to stand. Registered political parties will determine the order of candidates on their list at nomination, and seats will be allocated to the parties on the basis of their list.
- Under this system, registered political parties will be able submit a list of up to eight candidates in any constituency. This recognises that the new constituencies will each elect six Senedd Members, and allows for candidates withdrawing before the election, and the replacement of Members who may die or stand down after being elected creating a casual vacancy. This removes the need to hold a by-election if a party-list Member resigns after being returned, or is subsequently disqualified, and helps ensure that the votes of electors at an election continue to be represented in most circumstances. This will mean that the Senedd remains as fully constituted as possible.

Changes brought about by Elections and Elected Bodies (Wales) Act 2024

- The Conduct Order reflects changes made with regards to local government elections through provisions in the Elections and Elected Bodies (Wales) Act 2024 that hold candidates and agents accountable for notional expenditure only where they direct it, and allowing authorised persons to make payments otherwise than via an election agent.
- The undue influence offence set out in article 83 has been updated to modernise and strengthen the language used to describe the offence. This reflects the changes brought about by the Elections and Elected Bodies (Wales) Act to the equivalent provision in the Representation of the People Act 1983 in relation to local government elections in Wales. It also reflects the approach taken for UK elections via the Elections Act 2022.
- There are also amendments to the existing framework of election rules in Wales to reflect Elections Act 2022 provisions to improve the accessibility of elections for disabled people. These changes will complement related

changes implemented through the Elections and Elected Bodies (Wales) Act 2024.

Senedd Cymru (Representation of the People) Order 2025

Introduction

The instrument implements a number of changes to reflect developments in the wider elections field since the 2021 Senedd election, to modernise the language, to improve the accessibility of the Order and to reflect Welsh language requirements. Amendments have also been made to make sure that the language throughout the Conduct Order is gender neutral.

Given this is the first time the Conduct Order has been fully remade bilingually, the material differences between provisions in the 2007 Order (and its amending orders) and this Order have been outlined below. This memorandum does not provide an explanation of all provisions. Therefore, it should be used as a means of highlighting amendments to the 2007 Order and read in conjunction with the full Conduct Order.

Any references to provisions are to those in the new Conduct Order and reference changes have not necessarily been identified individually in this memorandum. In addition, changes to the numbering of provisions and consequential changes to provisions have not been specifically identified therefore, it is appropriate to check the current numbering of articles, rules and paragraphs within the Order when referring to it.

As a general point on the forms, they have all been renumbered and follow the sequence in which they are introduced in the Order, with the exception of the expenses related forms as this process comes at the end of an election.

All references to electoral regions, regional Returning Officers and regional members have been removed.

Explanation of frequently used terms

‘2007 Order’ refers to the National Assembly (Representation of the People) Order 2007 and amending Orders outlined at paragraph 23 above.

‘Local Election Rules’ refers to the Local Elections (Principal Areas) (Wales) Rules 2021 and the Local Elections (Communities) (Wales) Rules 2021.

‘STV Rules’ refers to the Local Elections (Principal Areas) (Single Transferable Vote) (Wales) Rules 2023.

‘The 1983 Act’ refers to the Representation of the People Act 1983.

‘Scottish Parliament Order’ refers to the Scottish Parliament (Elections, etc.) Order 2015.

‘The 2006 Act’ refers to the Government of Wales Act 2006.

‘PPERA 2000’ refers to the Political Parties, Elections and Referendums Act 2000.

Part 1 – General

Title, commencement, revocation and savings provision

This section sets out the title and commencement date of the Conduct Order. It states that the Order revokes the 2007 Order and amending orders, but it does not apply to elections occurring before 6 April 2026, to which the 2007 Order will continue to apply.

Interpretation

There have been a number of changes to this section from the 2007 Order, the majority of which relate to removing obsolete references to regional elections and to reflect the change of name of the Senedd from Assembly. There is also no longer reference made to mayoral elections as the Conduct Order no longer makes provision relating to these. The substantive changes and additions to this provision are set out below:

- candidate – means an individual candidate or a party list candidate for return as a Senedd member;
- date of the allowance of an authorised excuse – which has the meaning given by article 60(10) – this was previously in Part 3 of the 2007 Order;
- elector – amendment has been made to state that the definition applies except in relation to Articles 9, 10 and 67 and rule 36 of Schedule 5;
- legal incapacity – means any disqualification from voting imposed by the Order or by any other enactment;
- local authority - in relation to articles 25, 113(1)(b), 124(1)(b) and 124(2) and paragraph 6 of Schedule 3, means a county council, county borough council or community council in Wales, and in all other instances, means a county council or county borough council in Wales;
- money - except in articles 43, 80 and 81 and Schedule 6, and “pecuniary reward” is deemed to include any office, place or employment, any valuable security or other equivalent of money, any valuable consideration, and expressions referring to money will be construed accordingly – this definition was previously in Part 4 of the 2007 Order;
- nomination paper – means an individual nomination paper or a party nomination paper;
- party list – means a list of not more than eight candidates, but it may be a list of only one candidate, to be Senedd members for a Senedd constituency that is to be, or has been, submitted to a Returning Officer by a registered political party;
- payment – includes any pecuniary or other reward - this definition was previously in Part 3 of the 2007 Order;
- proxy postal voter (previously referred to as ‘postal proxy’) – means a person entitled to vote by post as proxy at an election;
- record of anonymous entries – means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to the 1983 Act;
- register of electors has been added to the definition of a register;

- statement of parties and persons nominated - means a statement prepared in accordance with rule 17 of Schedule 5.

Part 2 – Senedd Cymru Franchise and its exercise

The provisions in this part of the Conduct Order relate to the manner of voting at a Senedd election, including absent voting and the duties of Returning Officers.

Article 3 of the 2007 Order (voting at assembly elections) has been removed as there will only be constituency elections at the 2026 Senedd elections onwards. The first article of this part therefore relates to registration and absent voting. This title differs from the 2007 Order with the addition of absent voting. There are no changes to the substance of the article, but the format has been modified at paragraph (3) to ensure ease of reading.

Article 4 has been redrafted to enable, if circumstances make it desirable, the polling districts and places for the purposes of a Senedd Cymru election to be different to those for UK Parliament elections. The article now sets out that the polling districts and polling places must specifically be the same as those used or designated under section 18A and 18B of the 1983 Act for Parliamentary elections. However, the local authority or authorities can designate another polling place if it is deemed desirable for the purposes of a Senedd election.

Article 5, which makes provision to determine the manner of voting of a person entitled to vote as an elector at a Senedd election, has been reformatted for accessibility purposes. The article clearly distinguishes three types of voters in terms of how they can vote:

- P1 who are persons entitled to vote as an elector at a Senedd election and sets out provisions around voting in person, by post or by proxy.
- P2 who are patients in mental hospitals who are not detained offenders or on remand (section 7 of the RPA 1983) but who are liable to be detained in the mental hospital in question.
- P3 who are persons who have been remanded in custody (section 7A of the 1983 Act), whether P3 is registered by virtue of that provision or not.

The article currently only makes provision for those detained in mental health hospitals and not patients who, by virtue of illness, are inpatients in a hospital away from their constituency.

The provision in the same article in the 2007 Order relating to where the polls at a constituency election and a regional election are to be taken together has also been removed, as there are no regional elections in the new electoral system. Similarly, there is only now reference to a Returning Officer.

The provision relating to lists having effect in relation to both elections where electors are entitled to give two votes has also been removed from the article as there will no longer be regional elections, therefore there will not be two votes. It should also be noted that provision relating to requirements in the

registration to immediately compile the special list and supply them to the Returning Officer is retained and set out in article 137, as was the case in the 2007 Order.

The format of article 6, which relates to absent votes at Senedd elections for a particular or an indefinite period, has been modernised. Provisions relating to postal and proxy votes have been separated for the ease of the reader. The same approach has been taken at article 7, which relates to absent votes at a particular election.

The provision relating to the entitlement to give two votes has also been removed from article 7 as there will only be one vote in Senedd elections under the new system.

Article 8, which sets out provision relating to absent voter lists, has also been modernised to reflect the approach throughout the Order. In addition, provision in the 2007 Order relating to electors giving two votes has been removed, as this only applied when there were constituency and regional elections.

Article 9 relates to proxies at Senedd elections, where the elector applies to the registration officer for the appointment of a proxy to vote for the elector at Senedd elections. For clarity purposes, the article now specifies that the application is to be signed by the applicant. Paragraphs (12) and (13) have also been added to this article. Paragraph (12), for signposting purposes, sets out that paragraph 14 of Schedule 1 (which relates to the cancellation of a proxy appointment) provides for the steps to be taken where a proxy's appointment is cancelled, ceases to be in force, or is no longer in force under the article. Paragraph (13) sets out that the registration officer may dispense with the requirement for the applicant to provide a signature if the registration officer is satisfied that the applicant is unable to provide a signature because of any disability, because the applicant is unable to read or write, or unable to sign in a consistent and distinctive way because of any such disability or inability.

Article 11 which relates to electors' signatures and use of personal identifier information has been amended. The wording of paragraph (3) (which was paragraph (4) in the 2007 Order) has changed. It now refers to 'using' a signature provided under paragraph 2, rather than 'in relation to'. Paragraph (6) which specifies the relevant Representation of the People Acts is a new paragraph.

The article on the offences relating to absent voting in the 2007 Order has been divided into two separate articles in the Conduct Order. One relates to false information (article 12) and the other, to those other offences relating to absent voting (article 13). The first article is consistent with the 2007 Order. The second article is largely consistent with the 2007 Order, but the acts listed in article 31 (which relate to other voting offences) have been added to the list of acts which, if a person engages in them, that person can be guilty of an offence.

Article 14, which relates to miscellaneous absent voting provisions, has been amended for clarity purposes. Paragraph (1) sets out that section 59 of the

1983 Act (supplemental provisions as to members of forces and service voters) applies for the purposes of a Senedd election, subject to modifications listed. The modifications listed provide that all references to this Act, subject to the various sections and sub-sections detailed at Article 14, are to be read as though they are references to the Conduct Order. Paragraph (2) sets out that Schedule 1 makes further provision in connection with absent voting at Senedd elections, and paragraph (3) sets out that Schedule 2 makes further provision in connection with the issue and receipt of postal ballot papers.

There have been substantial changes to Article 15 which sets out the provisions relating to how local government elections can be combined with Senedd general elections. The article now reflects that only local government by-elections are capable of being combined with Senedd general elections.

The word 'shall' has also been replaced with 'may' in terms of prescribing the combination of polls. The new article therefore sets out that polls for a Senedd general election and a local government election to fill a casual vacancy occurring in the office of councillor for a county or county borough council, or to fill a casual vacancy among community councillors, may be taken together where they fall on the same day. This provision offers flexibility where a returning officer determines that merging elections is not appropriate, whether due, for example, to voter confusion or administrative considerations.

The article also sets out that the cost of taking the combined polls set out above together (excluding any cost solely attributable to one election) and any cost attributable to their combination must be apportioned equally among the elections. Schedule 3 sets out the relevant provisions in connection with the combination of polls at a Senedd general election and relevant local government elections.

There is no provision in the article for a poll at an extraordinary Senedd general election to be combined with the polls at any ordinary local government elections. In addition, the Conduct Order does not make provision for the combination of polls at mayoral elections with the polls at Senedd general elections.

Article 16 relates to the combination of polls at Senedd and Police and Crime Commissioner (PCC) elections. This provision has been reformatted so that it is more accessible to the reader.

Article 17 introduces the rules for Senedd elections in Schedule 5. There is also now only reference to Returning Officers as there are no longer regional Returning Officers. Similarly, Article 18 relating to Returning Officers, reflects that there are no longer regional elections or regional Returning Officers and they are referred to as Returning Officers.

Article 19 requires council officers to be placed at the disposal of Returning Officers. This requires the council of each county or county borough to place the services of its officers at the disposal of any Returning Officer for a Senedd constituency wholly or partly situated in its area, to assist the Returning Officer to discharge any of their functions in relation to a Senedd election. This

provision has been retained as constituencies from the 2026 Senedd elections will be larger and are likely to cover more than one local authority.

Article 20 relates to the Returning Officers discharge of functions. This now only makes provision for a Returning Officer to appoint (in writing) one or more people to discharge all or any of their functions at a Senedd election. It is no longer necessary to refer to an election to fill a casual vacancy as they will not be filled via an election under the new system (see Schedule 5). It is also no longer necessary to make provisions for regional elections as there will no longer be regional elections. Similarly, Article 21 relating to the correction of procedural errors, has been revised to reflect that there will be no regional Returning Officers or regional elections in the new electoral system, as is the case throughout this order.

Article 23 makes provision in respect of the entitlement of a Returning Officer to recover charges in respect of expenses incurred for, and in connection with, a Senedd election. The expenses must be necessarily incurred for the efficient conduct of the election. The article reflects the fact a payment will remain available to electoral administrators for each constituency for services rendered for the 2026 election given the extent of changes ahead of these elections. It is however the intention to review this position ahead of the 2030 Senedd election. Paragraph (8) sets out provision relating to superannuation contributions required to be paid in relation to any fee paid under Article 23. Similar provision was included in the 2007 Order.

The previous article 23A in the 2007 Order relating to the reduction of charges due to the inadequate performance of a Returning Officer has been removed from the Order entirely.

Article 24, which relates to the detailed assessment of a Returning Officer's account, has been reformatted for the ease of the reader. There is also clarification that it is the Welsh Ministers who may apply for the account of a Returning Officer to be assessed.

The Order no longer includes provision for ballot boxes, fittings and compartments provided for Parliamentary elections to be lent to a constituency Returning Officer at a Senedd election. This provision is considered to be unnecessary and not relied upon in practice. As such, Article 25 now simply restates that any ballot boxes, fittings and compartments provided by or belonging to a local authority must, on request (if not required for immediate use by that authority), be lent to a Returning Officer at a Senedd election, subject to agreed terms and conditions.

Article 26 largely replicates provision in the 2007 Order with regards to the effect of registers, albeit with a minor adjustment to the formatting. The article now clarifies that the provision in paragraph (2) around not excluding a person registered as a local government elector from voting at a Senedd election, does not prevent the rejection of a person's vote when the vote is legally challenged (in accordance with Part 4 of the Order). The reference to the 1983 Act has been restated in terms of defining what is meant by the relevant date in paragraph (5).

Provision relating to the effect of misdescription at Article 27 has been modernised but not changed. For clarification purposes only, it is considered that a spelling mistake or even a change of name would fall under this article. By way of example, with regards to the issue of a ballot paper, the presiding officer could ask the prescribed questions where a name is different in order to be satisfied that they are the same person, and that there is a valid reason for the discrepancy.

Specific reference to the relevant legislation has been added to Article 28. This requires a registration officer to comply with directions given by the Welsh Ministers relating the discharge of registration duties, when the registration officer in carrying out their functions under the Order.

Article 30 stipulates the provisions relating to the offence of personation. This article has not been changed from the 2007 Order save for alteration to the formatting, referencing the person as 'P' for clarity purposes and to ensure the language used is gender neutral. This drafting method is reflected in proceeding articles and throughout the Order. Section 24A of the Police and Criminal Evidence Act 1984 has been restated in this article.

Article 31 sets out other voting offences and most of the provisions in this article are the same as the 2007 Order. As with the previous article, the terms P1, P2, P3 and P4 are used to clearly set out how each previously listed offence would be seen to have been committed by a person. The formatting has also been modernised, for example, the offences are set out at the beginning of the article, which is followed by two provisions formerly covered within the first provision in the 2007 Order. Paragraph (7) sets out that a person who has applied for a ballot paper to vote in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, is deemed to have voted. Paragraph (8) sets out that for the purpose of determining whether an application for a ballot paper constitutes an offence under the article, a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper will be disregarded if that person does not exercise that right. The paragraph relating to the entitlement to give two votes has been removed as it is no longer applicable.

Rather than provisions stating that a person 'shall be' guilty of an offence, the language has been modernised to say 'is' guilty. The word 'shall' is no longer used in the Order to reflect modern drafting principles.

There have been a few changes to Article 33, which deals with offences relating to the tampering of papers. The article includes provision with regards to a person being guilty of an offence by fraudulently defacing or destroying any nomination paper, any ballot paper, or the official mark on any ballot paper, any postal voting statement, and any official envelope used in connection with voting by post. A consent to nomination form has been added to the list as this is now a prescribed form, and the home address form has also now been included. The rest of the list is broadly the same as that set out in the 2007 Order. Paragraph (2) clearly sets out that the person guilty of any of the offences listed could be a Returning Officer, a presiding officer, and anyone appointed to assist in taking the poll (previously referred to as a clerk), counting

the votes, or proceedings in connection with the issue or receipt of postal ballot papers.

As has been the case with the drafting technique applied to some of the previous articles, for the reader's ease there is now reference to three types of person (P1, P2 and P3) who would be guilty of a corrupt practice if the false statements listed within article 34 were included in a document to a Returning Officer for use in connection with the election. The provision related to regional elections has been removed, as well as provision referring to a certificate under rule 5 of the 2007 Order, as it was in reference to a rule concerning regional elections and is therefore no longer applicable in this Order.

There is also a new provision at the end of the article which sets out that a statement as to the candidate's party membership is a statement made in accordance with rule 10 of Schedule 5 to this Order. Rule 10 is a new rule which sets out the requirements for statements of party membership – covering the membership of relevant registered political parties in the 12 months before the notice of election is published – that must be included in the consent to nomination.

Article 35 relates to the requirement of secrecy, and it largely restates provisions in the comparable article in the 2007 Order, with the exception of some modernisation of language and structure for ease of accessibility and clarity purposes. In addition, in the list of those who must maintain the secrecy of voting, a member of staff of a returning officer is now included.

Part 3 – The Election Campaign

Part 3 of the Order makes provision in connection with Senedd election campaigns including the appointment of election agents; donations to individual candidates; election expenses of candidates, including requirements for accounting for campaign expenditure; publicity at elections, including free post. It also restates the offences relating to electoral activities at Senedd elections, for example, undue influence, treating, and bribery. As is the case throughout the Order, the language has been simplified and modernised where appropriate, and formatting changes have been made.

The interpretation article (Article 37) has been moved to the front of the Part to ensure it is in keeping with the formatting of other Parts of the Order. This change is also intended to inform the reader of the definitions before considering the substantive provisions in this Part thereby improving accessibility.

The interpretation provision no longer addresses the filling of causal vacancies as there will no longer be by-elections when such vacancies arise (see Schedule 5). The definition of 'for the purposes of the candidate's election' has been moved to this article (this was in Article 63 in the 2007 Order). The definitions of 'money' and 'payment' also no longer appear in this article but can now be found in the main interpretation provision (Article 2(1)).

The article which relates to computation of time for purposes of Part 3 has also been moved to the beginning of this Part (article 38).

The Election Agent

To reflect the new election system, the provisions relating to the election agent set out that there will be one election agent for each individual candidate, and one election agent per party list.

Article 39, which deals with the appointment of the election agent, now sets out that the election agents must be named no later than the latest time for the publication of the statement of parties and persons nominated. This was previously at the delivery of the notices of withdrawal of candidature. Paragraph (5) now sets out what should happen where a candidate is named as the electoral agent, but their nomination paper contains a statement that their home address should not be made public. In these circumstances, the information given in the candidates' home address form will be included in the public notice of election agents. Paragraph (6) is a new provision which sets out that if a candidates' commonly used name has been published in the statement of parties and persons nominated, this name must also be included in the public notice of election agents.

Article 40 makes provision around the nomination of a deputy (sub-agent). Paragraph (3) is a new provision which sets out that an election agent for a party list of candidates must, if the election agent appoints a sub-agent for any part of a constituency area, appoint the same person as sub-agent for that part of the constituency in respect of all candidates. Moreover, any such appointment may only be revoked in respect of all of the candidates.

The article also includes a requirement that the election agent must notify the Returning Officer of any such appointment no later than the second day before the day of the poll. This reflects comparable provisions in the 1983 Act and the Scottish Parliament Order. This was previously the fifth day before the poll in the 2007 Order. Therefore, it is considered important to highlight this change in guidance.

Provision related to the office of the election agent and sub agent within article 41 has been amended. Paragraphs (2), (3) and (4) set out that where a candidate is acting as their own agent and asks that their address is withheld from publication in their home address form, and their office address would be their home address, they may provide another correspondence address which will be used for the purposes of the public notice. This will ensure a sufficient address is provided for claims, notices, legal processes and other documents to be sent to. Paragraph (7) subsequently includes reference to a correspondence address.

The format of Article 42 which relates to the effect of default in an election agent's appointment has been altered slightly for clarity purposes, and the fact that there will only be individual and party list candidates going forward is reflected. In addition, the article now sets out provision as to what is to occur in

the case of the death of an election agent for a registered political party that has submitted a party list to reflect new procedures.

Donation to Candidates

As noted earlier in this document at page 5, the Elections and Elected Bodies (Wales) Act 2024 has brought about changes to campaign finance for local government elections. Where relevant, these changes have been reflected in this Order and therefore applied to Senedd elections.

As a result of the reform of the Senedd effected by the Senedd Cymru (Members and Elections) Act 2024, the provisions in Part 3 relating to elections expenses largely apply only to individual candidates. The expenses of party list candidates are treated as party expenditure and as such will be accounted for under PPERA 2000. The period over which individual candidates will be required to account for election expenses is also extended under the Order, referred to in the Order as the “regulated period”. Generally speaking, this period begins four months before the date of the election and aligns with the period for which registered political parties are required to account for their spending in respect of a Senedd election.

Article 44 relates to the payment of an individual candidate’s election expenses by, or through, an election agent. The article provides that as a general rule, election expenses can only be incurred by or through an election agent. However, the article also makes provision for exceptions to this rule. These exceptions are listed in paragraph (4) and an extra exception has been added to the list. This exception relates to expenses incurred in relation to any matter falling within article 47 by a person authorised as mentioned in that provision. Article 47 in turn details those election expenses which can be incurred by a candidate, a candidate’s agent or a person authorised in writing by the candidate or election agent during the regulated period.

Article 45 makes provision about personal expenses. Paragraph (1) applies to a party list candidate, and enables these candidates to incur and pay personal expenses up to a limit of £900. Any personal expenses over this limit must be paid by the treasurer of the party for party list candidates. Paragraph (2) applies to individual candidates, and enables these candidates to incur and pay personal expenses up to a limit of £900. Any personal expenses over this limit must be paid by the individual candidate’s election agent. The rationale behind the £900 limit is that candidates will be campaigning in multi-member constituencies and the figure is therefore based on the previous regional personal expenses limit.

As set out above, Article 47 details the election expenses of an individual candidate that can be incurred by a candidate, a candidate’s election agent or a person authorised in writing by an individual candidate or an election agent during the regulated period. The permitted sum (i.e. the maximum amount) for expenses of this nature is £1000, which is the same as the permitted sum in the case of a regional election in the 2007 Order. Forms 25 and 26 are introduced at article 47(8). These relate to the forms of return and declaration respectively that must be submitted in respect of expenses incurred in accordance with this

article. Previous forms CU and CV have been used as the basis for these forms and they have been adapted to apply to individual candidates in a constituency election.

Article 48 relating to the limitation of an individual candidate's election expenses has been amended with regards to what is considered as election expenses incurred during the regulated period, to reflect more closely section 79 of PPERA which deals with party list candidates. Paragraph (6) sets a maximum amount for the election expenses that can be incurred by or on behalf of an individual candidate at a Senedd election during the regulated period of £52,500.

Article 49 is a new article which defines the regulated period for which individual candidates must account for their election expenses. For ordinary Senedd general elections under section 3 of the 2006 Act, this period begins from the date which falls four months before the date of the poll, or the date which falls four months before the date when the poll would have taken place under section 3(1) of the 2006 Act. For extraordinary Senedd general elections this period begins on the date the Presiding Officer proposes a day for the poll for the election under section 5(1) of the 2006 Act. The period ends with the date of the poll for both types of elections.

The power to vary provisions which set the relevant amounts relating to election expenses at Article 50 has been restated, save that the order can be made by Welsh Ministers rather than the Secretary of State, as was the case in the 2007 Order. The original power to set the expense amounts already lies with the Welsh Ministers. Ministers will only be able to amend the amounts by following the affirmative procedure and upon the recommendation of the Electoral Commission.

Article 51(8) sets out that where a relevant person applies to a court for leave to pay a claim, the court can grant leave by means of an order for the claim to be paid where they are satisfied there is cause to do so.

Article 52, which deals with disputed claims, now sets out that where a sum paid by an individual candidate in pursuance of a judgement or order of the court, the individual candidate will be deemed not to be in contravention of article 44(1) or 51(2).

Article 54 deals with the return as to an individual candidate's election expenses. It requires the return to be a true reflection of the expenses incurred by an individual candidate during the election campaign. Unlike the 2007 Order, the form of return is no longer prescribed in the Conduct Order. Instead, paragraph (8) sets out that the election expenses form may be prescribed by regulations by the Electoral Commission.

Form 27, the election agent's declaration is introduced by Article 55(1). A copy of the return of election expenses must be attached to the election agent's declaration and the declaration must be marked with an identification mark. Form 28, which is introduced by Article 55(2), is the declaration that an individual candidate is required to provide as to their election expenses. This

must be delivered to the Returning Officer at the same time as the main elections return (or within 7 days).

Under Article 56, party list candidates are now required to provide a declaration detailing any personal expenses incurred by them, rather than a declaration relating to the party expenses as per the current requirements in the 2007 Order. Paragraph (1) sets out that each party list candidate must send their declaration to the Returning Officer within 35 days after the day the Senedd election results are declared. This article introduces Form 29, which is the form of declaration by party list candidates as to personal expenses and which has been updated to reflect these changes. Paragraph (3) of Article 56 makes it clear that the declaration must include only those personal expenses incurred by a party list candidate which have not been reimbursed to the candidate by the registered political party on whose party list the candidate was included.

Article 59(2) sets out the penalties for sitting or voting where the relevant returns and declarations are not delivered.

The next material change is to Article 63 which now sets out that the Returning Officer can publish the notice of the time and place at which the returns and declarations can be inspected in such manner as they think fit. This allows for the electronic publication of notices and reflects the equivalent provision within the Scottish Parliament Order.

There have also been changes to Article 64 in relation to the inspection of returns and declarations. The Order specifically sets out that the Returning Officer must take steps to ensure that the address of any individual donor is not included in the copy of the statement to be inspected or supplied. It also sets out that the prescribed fee for copies is 20p per page but that this amount can be revisited and amended by the Welsh Ministers by order. There is no longer a fee charged for inspecting documents.

The meaning of 'election expenses' is set out in Article 65. It has been amended to cover expenses incurred by individual candidates during the regulated period or where the circumstances in Article 48(2) apply (where expenses are incurred in relation to property, services and facilities before the regulated period but the property, services and facilities are used during the regulated period). Paragraph (5) refers to Schedule 7 which makes further provision about the election expenses of individual candidates at a Senedd election.

Article 66 which relates to, for example, property, goods, and services provided free of charge or at a discount has been amended so that 'notional expenditure' incurred by an individual candidate or their agent should only be considered to be an election expense if the use of the property, goods or services concerned has been directed, authorised or encouraged by the candidate or the candidate's agent. This change can be found at Paragraph (2). Paragraph (8) also sets out that any reference to anything being transferred or provided to a candidate or their election agent in the article includes where it has been given or transferred either directly or indirectly through any third person.

Publicity at Senedd elections

Article 67 makes provision for two pieces of free postal communications to be sent per individual candidate or per registered political party list (by the registered nominating officer), with a choice whether these communications are addressed or unaddressed. The article also sets out that those persons are entitled to send two free postal communications to each person entered in the list of proxies for the election. It is up to the individual candidate and the nominating officer whether to use two addressed communications, two unaddressed communications, or one of each. Further information on this provision is provided within the Regulatory Impact Assessment.

The provisions in Articles 68 and 69 restate the current provisions in the 2007 Order on broadcasting during a Senedd election campaign.

Article 70 sets out that it is an offence to issue any poll card or notification or other documents so closely resembling an official poll card or notification as to be calculated to deceive for the purpose of promoting or procuring a particular result at a Senedd election. This provision has been widened to specify notifications.

Election meetings

The right to use rooms for free for election meetings, which is set out in Article 71, is to be applied to both individual and party list candidates. The rooms capable of being used are rooms in maintained schools and rooms in buildings run by local authorities. Candidates are able to access both types of room in the constituency in which they are standing and in adjoining constituencies, whereas previously they could only use school rooms in adjoining constituencies. However, candidates are not permitted to use rooms in premises outside the constituency where there are suitable rooms available inside the constituency. There have been some formatting changes to this article and Article 73 (officials not to act for candidates) for accessibility purposes. The formatting of the latter reflects comparable provisions in the Scottish Parliament Order.

Article 78 has been amended to remove any overlap where section 143 PPERA would also apply, for example, material promoting a party, party list, or other category of candidates. This mirrors the approach taken with regards to imprints in the Scottish Parliament Order.

The next amendment to note is within Article 82 concerning the offence of treating. With the view to updating the language in the Order, it now refers to giving, providing, or paying in full or in part the expense of giving or providing, any food, drink, entertainment or provision. The 2007 referred to 'meat' rather than 'food'.

As set out at page 5, the offence of undue influence has been amended within Article 83 of this Order to reflect changes taken forward with regards to local government elections. The language describing the offence has been strengthened and modernised with the intention of ensuring it is more

straightforward to prosecute cases of undue influence where appropriate. In particular, the language in regard to damage to a person's reputation and intent has been strengthened. The previous definition, where there was more of a focus on physical harm, did not exclude reputational damage specifically, but there is equal recognition given to it in the new provision.

The new definition clarifies the importance of 'intent' in the commission of the offence. The phrase "for the purpose of" in paragraph (2) which outlines the elements of the offence, demonstrates that the intent of the person carrying out the activity is key. To be guilty of undue influence it is enough to establish an intent to unduly influence a person, even if the activity was not actually successful in this regard.

Part 1 – Legal Proceedings

Part 4 of the Order makes provision in connection with the legal challenge of a Senedd election or return, and details the election petition process. The Part largely restates what is in the equivalent Part of the 2007 Order, but as has been the case throughout the Order, the language and structure of many articles have been modernised and adapted to improve the accessibility of this Part. Any such changes may not be mentioned below if the intent of the provision is not altered.

The interpretation article (Article 86) has been moved to the front of the Part to ensure it is in keeping with the formatting of other parts of the Order and also to assist the reader. The following additional definitions have been included within the article:

- The 1960 Rules – these prescribe the process that must be followed in relation to an election petition.
- Authorised person – is an authorised person in relation to an activity which constitutes the exercise of a right of audience within the meaning of the Legal Services Act 2007.
- Parliamentary election petition – is a petition presented in pursuance of Part 3 of the 1983 Act.
- Relevant vacancy – is when a seat of a Member of the Senedd returned from a list submitted by a registered political party is vacant within the circumstances described in section 11 of the 2006 Act.
- Return – means the return of a Member of the Senedd.

Further context has also been provided in relation to the terms 'prescribed' and 'prescribed officer'.

The reformatted Article 88 relates to the rules of procedure and signposts to the Election Petition Rules 1960 (the 1960 Rules). This article has been moved from the end of the Part to aid the reader's understanding, as it is considered important for reference purposes to have this information set out at the beginning of the Part.

Article 89 sets out provision relating to the presentation and service of a Senedd election petition. As with the rest of the Order, any references to

regional elections have been removed from this article. Other than this, the effect of the article remains as in the 2007 Order.

The structure of Article 90, which relates to the time for presenting or amending a Senedd election petition, has been amended slightly to make it easier to read. In addition, the language has been modernised as is consistent with the approach taken throughout the Order. An example of which is the use of the word 'knowledge' instead of 'privity', which refers to the payment/reward having been made with the member's knowledge. Paragraph 4(b)(ii) clarifies that the party list candidate expenses referred to in the provision are the personal expenses of that member. However, no changes have been made that alter the effect of the article.

Provision relating to the attendance of a shorthand writer in the court has been retained in Article 93 and indeed a copy of the transcribed evidence must accompany a certificate issued by the court. Paragraph (2) states that the shorthand writer must be sworn in by one of the judges of the election court to take down the evidence given at the trial and to transcribe that evidence, or cause it to be transcribed. The language 'faithfully and truly' in the 2007 Order, relating to taking down the evidence, has been removed.

Under Article 94, relating to the security for costs, any affidavit accompanying any recognizance has been added to the list of documents that must be served on the respondent. This reflects what is set out in the 1960 Rules.

Article 97 includes provision in relation to the trial of a petition. Paragraph (8) is a new paragraph which sets out that, for the purposes of the article, "seat allocation figure" is the figure determined in accordance with section 8 of the 2006 Act.

Minor changes have been made to Article 101, which relates to the conclusion of the trial of a Senedd election petition. These changes reflect that there will no longer be regional elections, and also the preference to not limit the court's capacity to rule in any specific way. Following the regime in the 2007 Order for constituency elections will ensure the Court has the capacity to determine which person is to be returned or that the election was void.

The next article (Article 102) relates to where the election is determined to be void by an election court, and largely replicates the provisions relating to regional elections in the 2007 Order. This is because constituencies will operate in a way that is more similar to the current regions, with a multi-member closed list system for party candidates. However, the language has been modified and the last two provisions removed to reflect the fact that there will only be constituency elections under the new electoral system in Wales. The previous Article 100 of the 2007 Order has been removed as there will only be a one-tiered system, negating the need for a provision to outline the effects of the return from a constituency election on the return of the regional seats.

Provisions relating to appeals and jurisdiction have been split across two articles (Articles 108 and 109). Article 109 relates to jurisdiction and paragraph (1) sets out that, subject to the provisions of the Order, the principles, practice and rules on which election courts act in dealing with parliamentary election petitions must be observed by the High Court and election court in the case of Senedd election petitions, so far as appropriate having regard to the different systems of election. This provides for a wider scope as to how the court will apply those rules in correspondence with the different systems of election and it is the approach taken in the equivalent rules for Scottish elections.

There have been a number of changes to the format of the subsequent provisions in the Order which are outlined out below.

Article 110 sets out provision relating to reports as to a person's guilt of corrupt or illegal practice, with Article 111 dealing with reports as to a candidate's guilt of corrupt or illegal practice. The provisions reflect that the article does not apply where a Senedd election petition relates to a relevant vacancy return.

Article 112 then goes on to deal with the consequences of a candidate being reported guilty of a corrupt or illegal practice, with Article 113 addressing the incapacities of being reported personally guilty of corrupt or illegal practice. Article 113 sets out the effects of being reported guilty of corrupt or illegal practice at a Senedd election and now refers only to the incapacity applying to Senedd elections and local government elections in Wales. Other legislatures have been removed from the list which was previously set out in the 2007 Order. As such, this Order only imposes disqualification consequences that apply in connection with registering as an elector or voting at a Senedd or local government election, or being elected as a member of the Senedd or a local authority in Wales.

It is considered that disqualification consequences following being reported or convicted of corrupt or illegal practices in other UK elections is adequately covered in other legislation such as sections 160 and 173 of the 1983 Act and Section 16 & Paragraph 5 of Schedule 1A of the 2006 Act. As a result, the provision that deals with such in the 2007 Order has not been repeated.

Provision setting out the consequences for members of legal (and certain other) professions who are found guilty of a corrupt practice are set out in Article 115. 'An authorised person' has been added to the provision to reflect the addition to section 162 of the 1983 Act by the Legal Services Act 2007. This refers to a person who is authorised by an approved regulator or a licensable body which, by virtue of such a licence, is authorised to undertake relevant legal activity and includes a person other than a barrister or solicitor.

There have been some minor amendments to Article 118, which deals with the avoidance of an election for employing a corrupt agent. Under this article a person is not capable of being elected if they, or their agent personally engages a canvasser or agent that they know has an incapacity to vote at the election. In accordance with the article a person is subject to an incapacity to vote if that person is convicted or reported for any corrupt or illegal practice within the meaning set out in the Order, the 1983 Act and any enactment relating to

elections in the Northern Ireland Assembly or the Scottish Parliament. The Electoral Law Act (Northern Ireland) 1962 has been added to this list. Any references to the type of candidate fall under the umbrella of simply 'candidate' for the purposes of this provision for the ease of the reader. The effect of this provision is not changed by the amendments made to it.

Article 119, which deals with votes to be struck off for corrupt or illegal practices, sets out at paragraph (3) that a vote by a person at a Senedd election will be void if that person is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring. Hiring has been added here to reflect comparable provisions in the 1983 Act. For the same reason, hiring has been also added to paragraph (4) of Article 120 which relates to applications for relief. The provision in Article 119 relating to the vote being void at a Senedd election if that person is subject to an incapacity to vote due to corrupt or illegal practices committed in relation to other elections, also now extends to corrupt or illegal practices in connection with Police and Crime Commissioner elections.

Provision relating to prosecutions for illegal practices are set out in Article 122. Within this article, it states that a person found guilty of an illegal practice is liable to a fine of up to level 5 on the standard scale. The sums prescribed in the standard scale are set out in section 122 of the Sentencing Act 2020, and in this case the maximum fine would be £5,000. It also sets out that on a prosecution for an illegal practice, it will be sufficient to allege that the person charged is guilty of an illegal practice.

Article 124 which relates to incapacities on conviction of corrupt or illegal practice at a Senedd election, has been renamed and substantially reformatted for the ease of the reader. In addition, as was the case above with changes to Article 113, references to England, Scotland and Northern Ireland government positions have been removed. The previous Article 124 in the 2007 Order which dealt with the incapacities of persons reported personally guilty of corrupt or illegal practices at other UK elections is not restated in this Order. It is also worth noting that Article 128, which relates to the prosecution of offences committed outside the United Kingdom, has been restated.

The article setting out provisions to be applied to the Director of Public Prosecutions (Article 132) has been restated, but there are minor amendments to the format and language to modernise the provisions. The effect of the provision is however, unchanged. Paragraphs (2) and (3) have been reworded for clarity purposes.

Article 133 which relates to costs now sets out that the costs allowed in respect of a Senedd election petition may not be higher than the costs that would be allowed in any action, cause or matter in the High Court on a standard basis.

Part 5 – Miscellaneous and supplemental

The formatting of Article 137, which relates to Senedd constituencies not wholly within a county or county borough, has been revised.

There is a new provision at article 140(2) which sets out that a returning officer must take reasonable steps to ensure the contents of public notices are brought to the attention of the public.

Article 141 makes provision relating to the electronic signatures where a document is permitted to be submitted electronically.

Schedule 1 – Absent voting at Senedd elections

This Schedule makes detailed provision for applications for absent voting and the maintenance of records in connection with such applications.

Schedule 1 has been redrafted for clarity purposes to reflect the structure used for the equivalent provisions in the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341), which deal with absent voting at UK Parliamentary and local government elections.

Paragraph 1 relates to general requirements for applications for an absent vote. Cross references to articles in Part 2 of the Order have been updated, and the title of the relevant article has been cited to improve the accessibility of the Order. This approach has been replicated throughout Schedule 1. Sub-paragraph (1)(b) relating to an address on an application has been expanded to clarify that the register is the register of electors. Sub-paragraph (6) has been added which makes provision that where an application is made to vote by proxy, it must include an application for the appointment of a proxy which meets the requirements of the newly numbered paragraph 6. Paragraph 1 in the 2007 Order has also been reformatted in the Conduct Order and has been divided across paragraphs 1 to 3. Paragraph 2 of the Conduct Order now contains the provisions relating to additional requirements for applications for ballot papers to be sent to a different address from that stated in application, and paragraph 3 sets out the additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under the relevant articles.

In keeping with the modernised drafting approach, for the reader's ease of reference, the term 'P' is used as a descriptor for a person as provided for within paragraph 7(3).

Paragraph 8(6) has been added which sets out that the "allotted polling station" in relation to an elector in the paragraph, means the polling station allotted or likely to be allotted to the elector under rule 34 of Schedule 5. The same provision has been added to paragraph 9(9) This reflects the wording of Paragraph 7(8). All relate to additional requirements for applications for a proxy vote for a particular or indefinite period for different grounds.

There have been some changes to paragraph 11 which sets out provisions relating to the closing dates for applications. The reference to constituency Returning Officer (in paragraph 7(5A) of the 2007 Order) has been changed to

Returning Officer for the Senedd constituency to which it relates in the same provision, which now sits at sub-paragraph (6). This is due to the fact that the former term is no longer defined in the Order, and this is therefore the approach taken throughout the Order. A day appointed for public thanksgiving or mourning has also been added to the list of days that should be disregarded for the purpose of computing a period of days. This reflects the approach taken in comparable provisions in Part 3 of, and Schedule 5 to, the Order.

In paragraph 12, which deals with the granting or refusing of applications, sub-paragraph (9) has been amended to reflect the new legislation around constituencies. It sets out that where the registration officer is not the Returning Officer for a Senedd constituency, or part of a Senedd constituency, they must send the Returning Officer details of any application they have granted to vote by post as soon as practicable after doing so.

Form 1, which sets out the form of proxy paper, is introduced at paragraph 12(3). This form is largely as it was in form CA in the 2007 Order, although it has been adapted to reflect that there will no longer be electoral regions. The wording regarding a qualifying citizen to act as a proxy now reflects the wording in article 9(3) of the order being: a British or other Commonwealth citizen, a citizen of the Republic of Ireland, a relevant citizen of the Union or a qualifying foreign citizen.

Most changes to paragraph 13 are to the format to improve accessibility and do not alter the overall effect of the provision.

Paragraph 15, which contains provisions around inquiries by the registration officer, has been amended to reflect the approach taken in the Scottish Parliament elections. Paragraph 15(1) sets out that the registration officer may make inquiries in relation to a person voting by proxy in the record kept under article 6(4) in pursuance of an application granted on the grounds set out in article 6(3)(c) or (d) (i.e. disability, severe sight-impairment, occupation, service or employment), to determine whether there has been a material change of circumstances. The following sub-paragraphs remain largely the same other than the registration officer 'must' make the inquiries referred to no later than three years after the granting of the application or the date of the last such inquiry, rather than 'shall'. This ensures that there is no ambiguity around the provision, and it is in keeping with the drafting approach throughout the order.

Paragraph 16 of Schedule 1 relates to the requirement to provide fresh signatures at five yearly intervals. Other than formatting changes, the only material change to these provisions is at sub-paragraph (6). This sets out that the period specified in the notice sent to the absent voter is six weeks, which is consistent with current arrangements and working practice, in any case.

The drafting of paragraph 18(2), which sets out the specific people entitled to copies of the full register, has been changed to reflect that there will only be individual candidates and party list candidates, and of course constituency elections, in the future.

Form 2, which is the form of certificate of employment, is introduced at paragraph 22. This has been adapted, as is the case with all the forms, to reflect that there will no longer be regional elections.

The former Schedule 2 in the 2007 Order which made transitional provisions in relation to existing absent voters has been removed from the order as it is no longer required.

Schedule 2 – Issue and receipt of postal ballot papers

This Schedule makes provision for the process relating to the issue and receipt of postal ballots.

The following definitions of terms have been added to the interpretation paragraph of the Schedule:

- personal identifiers record refers to the record kept in accordance with paragraph 4 of Schedule 1.
- receptacles for ballot paper envelopes, postal voting statements (verification procedure), rejected ballot paper envelopes, rejected votes and for rejected votes (verification procedure) means the receptacles referred to in paragraph 18(6). (The formatting of this definition has been amended in line with the provision in the Scottish Parliament Order).
- valid postal voting statement refers to a postal voting statement, which, the Returning Officer is satisfied has been duly completed in accordance with paragraph 23.

The provision at paragraph 2, which relates to the combination of polls, reflects that the processes for the issuing and receipt of postal ballot papers can only be combined where the polls for a Senedd general election are combined with the poll of a local government by-election.

For the ease of the reader, paragraph 3 has been amended to make the provisions relating to the form of postal voting statement clearer. In addition, the approach taken above regarding combined elections is reflected in this paragraph. The paragraph relating to regional elections has been removed as it is no longer relevant.

Paragraph 3 introduces Form 3: Form of Postal Voting Statement, Form 4: Postal voting statement (where polls are combined and issue and receipt of ballot papers are taken together) and Form 5: Postal voting statement (where polls are combined but issue and receipt of ballot papers not taken together). These are the forms which are to be sent to the postal voter with the postal ballot paper and were previously referred to as CC1, CC2 and CC3 in the 2007 Order. The drafting of these forms replicates the approach taken in drafting the equivalent forms within the Local Election Rules. The language of the forms has been modernised, instructions have been adapted to ensure clarity, and there are additional instructions around the format of the voter's date of birth, as well as the options for returning the ballot papers. The wording in Form 4 now also includes voting instructions to be used when a local government election is undertaken using the Single Transferrable Vote (STV) system.

The instructions on marking the ballot paper now clearly refer to the voting box. A similar approach was taken in the drafting the STV Rules following consultation, the purpose being to improve clarity of instructions and help to avoid errors where a voter might put a mark over a party emblem (even if not in a box), instead of in the voting box. This approach has been replicated in other forms to ensure consistency.

The forms state that the ballot paper and postal voting statement can be handed in on the polling day at any polling station, specifically in the constituency, before 10 p.m.

Paragraph 4 sets out who is entitled to be present at the proceedings on the issue of postal ballot papers. The provision reaffirms the position that the Returning Officer will be the relevant officer for proceedings in connection with the issue of postal ballot votes as for the purposes of section 6E of PPERA (which sets out the powers of the relevant officer to limit attendance and the conduct of observers). The Returning Officer's staff are referenced as being authorised to be present, rather than 'clerks' as previously referenced. As stated previously this is now a term used consistently for this purpose throughout the Order. These changes are also reflected in the following two paragraphs.

Paragraph 5 sets out who is entitled to be present at proceedings on the receipt of postal ballot papers. The 2007 Order provisions have been split across this, and a new paragraph, paragraph 6, which sets out provision relating to the appointment of agents to be present at proceedings on receipt of postal ballot papers. Paragraph 5 states that those entitled to attend include the Returning Officer and their staff, individual candidates, party list candidates, the election agent of an individual candidate (or any person appointed by an individual candidate to attend in the place of their election agent), the election agent of a nominated registered political party (or any person appointed by the registered nominating officer of that party to attend in the place of that party's election agent), or any agents appointed under paragraph 6.

Paragraph 6 sets out that an individual candidate and election agent for a registered political party standing nominated may appoint one or more agents to be present at those proceedings on their behalf. In accordance with sub-paragraph (2), the Returning Officer can impose a limit on the number of agents, but the maximum number of agents must be the same for each individual candidate or election agent for a registered political party standing nominated. Sub-paragraph (3) has not been changed but specifically referencing an individual candidate.

Sub-paragraph (4) is a new provision. This sets out that if a notice of appointment indicates more names than are authorised by the Returning Officer, after consulting with the individual candidate or election agent who submitted the notice, the Returning Officer must determine which of the persons named in the notice are to be taken as having been appointed. This provision is consistent with the Scottish Parliament Order. The following provisions remain fundamentally the same barring changes consistent with the

rest of the Schedule to reflect that provisions apply to an individual candidate or an election agent of a registered political party standing nominated.

The wording of the provision relating to the notification of the requirement of secrecy in paragraph 7 has been amended to reflect the related provisions in article 35 and Schedule 5.

Paragraph 8 sets out that postal ballot papers and voting statements must be issued by the Returning Officer as soon as it is practicable to do so after the deadline for the delivery of nomination papers. Although the provision has been expanded to define the deadline further, this presents no practical change to the arrangements currently in practice.

The only material change to the provisions setting out the procedure on the issue of a postal ballot papers (paragraph 9) is the removal of the provision that stated that where an elector was entitled to give two votes, the constituency ballot paper and the regional ballot paper would have had the same number. Now that there will only be constituency elections and voters will only cast one vote in those elections, that provision is no longer required.

There are changes to the format of paragraph 11, which sets out provisions concerning envelopes, to improve accessibility.

The title of paragraph 12 has been changed from 'sealing up of completed corresponding number lists and security of special lists' to 'security of marked lists'.

The drafting approach in paragraph 14 and paragraph 15 on spoilt and lost postal ballot papers has been amended to make those provisions easier to read. The order of provisions in paragraph 14 has also been changed to improve the readability of the provisions. Sub-paragraph (6) sets out that paragraphs 5 (persons entitled to be present at proceedings on the issue of postal ballot papers), 6 (persons entitled to be present on the receipt of postal ballot papers), 7 (notification of the requirement of secrecy), 9 (procedure on issue of postal ballot paper) except sub-paragraph (2), 10 (refusal to issue postal ballot paper), 11 (envelopes) 12 (sealing up of completed CNLs and security of special lists) and, subject to sub-paragraph (5), 13 (delivery of postal ballot paper), apply to the issue of a replacement postal ballot paper under sub-paragraph (3). Similar provision applies to paragraphs 15 and 16 with relevant changes to those exceptions referenced above.

With regards to lost postal ballot papers, there is provision at paragraph 15(14) which states that the Returning Officer must have regard to any guidance issued by the Electoral Commission when dealing with lost postal ballot papers. The Electoral Commission's guidance is already very comprehensive around, for example, what can be used to confirm the postal voters' identity. There is also a new provision at paragraph 15(8) which allows a Returning Officer to refuse to issue a replacement postal ballot paper if they have reason to doubt that the original has been lost or not received.

In paragraph 16, in sub-paragraph (1) the reference to the final nomination day has been updated to a reference to the deadline for the delivery of nomination papers. Also, provision has been made at sub-paragraph (3) that in the case of an elector who has an anonymous entry, the elector's electoral number alone will be entered on the list of cancelled postal ballot papers.

Receipt of postal ballot papers

Paragraph 17 relates to the notice of opening of postal ballot paper envelopes. The provision sets out that no less than 48 hours' notice must be given to individual candidates, party list candidates, and the election agent for each registered party standing nominated of each occasion when a postal voters' ballot box and the envelopes contained in it are to be opened. This reflects changes made to paragraph 5.

In paragraph 18, which deals with postal ballot boxes and receptacles, sub paragraph (2) has been reformatted to refer to the Welsh version of the markings. From sub-paragraph (4) onwards, there is provision for the Returning Officer to lock up the postal ballot box, if it has a lock. The original provision then follows for the Returning Officer's seal to be placed on the box, in a way as to prevent it being opened without breaking the seal, and any of the agents present who wish to add their seals may then do likewise. This aligns more closely with the language concerning ballot boxes in Schedule 5 and is also consistent with the provisions on postal votes in the Representation of the People (England and Wales) Regulations 2001, applicable to both UK parliamentary and local government elections.

Sub-paragraph (5) has been added to provide for the possibility that there may need to be more than one postal ballot box, for example, to deal with an excessive number of postal votes being received. The requirement to provide a receptacle for postal voting statements has been removed as the "receptacle for postal voting statements (verification procedure)" is used for all postal voting statements.

There are two additional sub-paragraphs in paragraph 19, which relate to the receipt of covering envelopes. These provide that the Returning Officer may collect or arrange for the collection of the postal ballot paper or postal voting statements that the presiding officer at a polling station would otherwise be required to deliver or cause to be delivered to the Returning Officer. Where this happens, the presiding officer must first make the papers up into a packet, or packets, sealed with their own seal and the seals of any polling agents as are present and who wish to add their seals. This coincides with a change to rule 55 in Schedule 5 which has been updated to require presiding officers to seal up postal ballot papers delivered to the polling station in packets and deliver those packets to the Returning Officer, along with the other documents, at the close of the poll.

Paragraph 21 relates to the opening of covering envelopes and details which of the subsequent paragraphs of the Schedule apply depending on which postal ballot papers are received.

Paragraph 22 sets out provision in relation to confirming receipt of postal voting statements. As with the provisions relating to lost postal ballot papers, provision has been added at sub-paragraph (4) to set out that the Returning Officer must have regard to any guidance issued by the Electoral Commission when dealing with requests for confirmation of receipt of postal voting statements.

Paragraph 23 details the procedure a Returning Officer must follow where covering envelopes contain postal voting statements, and paragraph 24 sets out the procedure for the opening of ballot paper envelopes.

Paragraph 25 deals with the retrieval of cancelled postal ballot papers. There is now provision here that sets out that when retrieving cancelled ballot papers, the Returning Officer and their staff must keep the ballot papers face downwards and must take proper precautions to prevent anyone seeing the votes cast on the ballot papers, and they must not be permitted to view the corresponding number list used at the issue of postal ballot papers.

Under the lists of rejected ballot papers at paragraph 26, the lists apply to any Senedd election, which is consistent with provision made in the Scottish Parliament Order.

The main change to paragraph 27 is to the title of the paragraph to reference the correct paragraph in the Schedule. The only change to paragraph 29 on abandoned polls is to ensure sub-paragraph(1)(b) contains the correct cross references to the relevant paragraphs in the Schedule (paragraphs 21 to 25). The appropriate reference is also made to rules 66 and 67 of Schedule 5.

Formatting changes have been made to the final paragraph of this Schedule, which sets out provision relating to the forwarding of documents, to ensure it is easier to follow. The effect of the provisions themselves have not substantially changed. However, in relation to sub-paragraph (4)(a) there is now a reference to rule 55(3)(g) in Schedule 5. This has the same effect as rule 55(7) in the 2007 Order.

Form 6, which is the statement as to postal ballot papers, is introduced at paragraph 30(1)(b). This form is based on the previous form CD in the 2007 Order, as amended by the National Assembly for Wales (Representation of the People) (Amendment) Order 2016. Sub-paragraph (6) sets out that the returning officer must provide a copy of the statement to the Electoral Commission, at least 10, but not more than 25, days after the day of the poll.

Schedule 3 – Combination of polls: Senedd Cymru elections and local government elections

As mentioned earlier, the former Schedule 2 has been removed from the Order, therefore, due to subsequent renumbering, the provisions concerning the combination of polls at Senedd elections and local government elections are now contained within Schedule 3, and the provisions relating to the combination of polls at Senedd elections and Police and Crime Commissioner elections are

within Schedule 4, whereas they were set out in Schedule 4 and 4A respectively in the 2007 Order.

Relevant terms that are used throughout the Order are defined in article 2, and it should be noted that references to a Senedd general election mean elections for the return of all Senedd members which includes the polls at an extraordinary Senedd general election.

Schedule 3 modifies Schedule 5, as well as the Local Election Rules as appropriate where the poll for a Senedd election is combined with the poll of a local government election as permitted by Article 15 of the Order. That article provides for the combination of Senedd polls with a poll to fill a casual county or county borough councillor vacancy and a poll to fill a casual vacancy among community councillors (i.e. local government by-elections).

Paragraph 1, which sets out provision relating to the discharge of the Returning Officers functions and use of polling stations, now only provides for the combination where there is Senedd general election, as this will be the only type of Senedd election. Therefore, the Returning Officer for the Senedd election will be responsible for discharging all relevant duties in relation to both elections if the Returning Officers so choose to combine the polls.

The new Order does not make provision for the combination of polls at mayoral elections with the polls at Senedd general elections, therefore, provision for such has been removed from paragraph 2 and related amendments made throughout the Order to remove reference to mayoral elections. In the case of a Senedd election, the functions which are to be combined where polls are combined are those conferred by the relevant rules in Schedule 5 as specified in paragraph 2(2), and those conferred by paragraph 19(3) of Schedule 2.

Within paragraph 3, which relates to the modification of provisions about expenses in this Order and the 1983 Act, there is no longer reference to the inadequate performance of a Returning Officer resulting in the reduction of charges, as this article has been removed from Part 2 of the Order for reasons set out earlier in this document.

PART 2

This part of the Schedule sets out the modifications to Schedule 5 which apply where the poll at a Senedd general election is taken together with a poll at a local government election under Article 15(1).

For the reasons outlined above, general provision relating to the modifications to Schedule 5 now only refers to Article 15(1) as this sets out which polls can be combined in the future.

The modification at paragraph 6 to rule 31 of Schedule 5, which relates to the notice of poll, has been amended slightly. The modified rule 31(5)(c) now refers to the notice being required to specify the part of the Senedd constituency in which the polls are to be taken together.

Other changes to the modified provisions within this Schedule include ensuring the Welsh text in modified provisions comes before the English text to reflect the approach taken throughout the Order with regards to ensuring the Welsh Language is treated equally within the Order. In addition, the provisions within Part 3 and 4 have been given headings to ensure accessibility.

There are also minor changes to text for notices to be displayed at polling stations in the scenario of a local election delivered under the STV system.

Schedule 4 – Combination of polls: Senedd Cymru elections and police and crime commissioner elections

Schedule 4 deals with the combination of polls at a Senedd general election with the polls at Police and Crime Commissioner (“PCC”) elections and modifies Schedule 5 as appropriate. The Schedule no longer makes textual modifications to parts of Schedule 3, as was the case in the 2007 Order, in effect amending and applying the relevant provisions to combined polls. This is because Schedule 3 already makes the necessary textual modifications to Schedule 5, and to further modify Schedule 3 would make it more confusing for the reader and therefore less accessible. The approach taken in this Schedule therefore has been to set out the relevant provisions of Schedule 5 that are to be modified, rather than referring to the provisions in Schedule 3. As such, provision in the 2007 Order around the application and modification of the previous Schedule (was Schedule 4) to combined Assembly and PCC elections, is no longer required.

Paragraphs 1 to 3 of the Schedule have been restated but as standalone provisions which include the further modifications that were referred to in the 2007 Order, with the intention to improve the accessibility of the Schedule. Furthermore, provision in paragraph 1 relating to Regional Returning Officers and their functions has been removed as functions will always be carried out by a Constituency Returning Officer.

Other than the above, there have been very few textual amendments to the relevant provisions in Schedule 5, only those to ensure the rules in Schedule 5 are appropriate for use when the polls at Senedd general elections (ordinary or extraordinary) are combined with the polls at PCC elections.

As was the case with Schedule 3, reference to inadequate performance of the Returning Officer and the reduction of charges has been removed from the paragraph setting out the modification of provisions about expenses in this Order and the Police Reform and Social Responsibility Act 2011. Paragraph 3 relates to the modification of provisions about expenses in this Order and the 2011 Act. Sub-Paragraph (4) sets out under which articles Welsh Ministers can include special provision for services rendered or the remuneration of presiding officers and clerks.

Paragraph 4 (modifications to Schedule 5: general provisions), is a new provision to apply Schedule 5, as modified, where the poll at a Senedd general election is taken together with the poll at a PCC election, with the detailed

modifications to the rules set out in the subsequent paragraphs of the Schedule.

There are also a number of changes made to ensure the rules in Schedule 5 are appropriate for use when the polls at Senedd general elections (ordinary or extraordinary) are combined with the polls at PCC elections. For example, to reflect that proceedings for the issue and receipt of postal ballot papers can no longer be taken together due to changes made by the UK Government to the postal voting system for reserved elections. The Schedule now also reflects that the voting system for PCC elections has changed to first past the post under the Elections Act 2022. In addition, any references to regional elections have been removed.

Schedule 5 - Senedd election rules

Schedule 5 sets out the rules for the conduct of Senedd elections and the return of Senedd members. As has already been set out, following the passing of the Senedd Cymru (Members and Elections) Act 2024, there will in future only be constituency elections with either individual candidates or registered political parties standing for election in those constituencies. The registered political parties will submit lists of up to 8 party list candidates. The schedule has therefore, been amended substantially to reflect these changes.

As a general note, in many instances the Order now allows for forms of the like effect where explicitly stated, this is to bring the legislation in line with current practices and also to ensure the modernisation and the general future proofing of the Order.

The formatting of some provisions in the Schedule has been modernised and updated to reflect the drafting approach taken with the Local Election Rules. Unless the effect of such provisions substantially differs from the 2007 Order, as amended, these will not necessarily be covered below.

Part 1: Provision as to time

This Part of the rules sets out the required timetable for certain activities that must take place prior to and including polling day. This includes setting deadlines for the publication of the notice of election, delivery of nomination papers, making of objections to nomination papers, delivery of notices of withdrawal of candidature, publication of the statement as to parties and persons nominated and polling times. It also sets out the days which a poll or count should not take place on.

The Order now allows for the electronic submission of nomination papers and the notices of withdrawal of candidature. As such, they will be treated as delivered at the time when their delivery is recorded on the computer. This change ensures the modernisation of the Order, ensuring candidates are subject to an accessible process when standing for election. It is considered that the 2007 Order provision, if left unchanged, could have unwittingly prevented potential candidates from standing for election and potentially

disadvantaged candidates in more rural areas. Candidates may still choose to obtain and submit nomination papers in person.

Part 2: Stages common to contested and uncontested elections

Part 2 sets out the rules around the notice of election and what that notice should include. It also sets out the rules in relation to the nomination of candidates and the method of election.

Given the increase in the size of constituencies under the new system, the notice of election under rule 3 can now state more than one place where nomination papers can be delivered to, as well as one specific place as was the case in the 2007 Order.

Nomination

The duty on the Returning Officer to supply nomination forms etc. is now a standalone rule (rule 4) to further ensure the accessibility of the law. The rule has also been expanded to allow for the electronic submission of nomination papers as outlined above.

Rule 5 reflects the approach taken in the drafting of the Local Election Rules in that if an individual candidate uses different forenames or surnames from those stated, including variations in order or additional names, the nomination paper may include these commonly used names. Similar provision is made in Rule 6 in respect to party list candidates. The individual nomination paper at form 7 which should be used (or a form to the like effect) is introduced here.

Rule 6 deals with the nomination of registered political parties and party list candidates and introduces Form 8, which sets out the party nomination paper which should be used (or form to the like effect). Form CI in the 2007 Order, which related to party nomination papers for regional elections, has been used as the basis for the nomination form for registered political parties for constituency elections in this Order. The language of the form has been modernised and all references to regional elections removed. The form is to be subscribed by the nominating officer of the registered political party submitting it, or by a person authorised in writing by that officer. The office address of the nominating officer or person authorised by that officer should also be included, as well as their email address, if available. The notes to the form have been updated and reference this Order, as opposed to the 2007 Order.

Rule 7(1) introduces Form 9. This is the certificate by which the name or names, or description to be contained in a party nomination paper must be authorised. Form CJ for regional elections in the 2007 Order has been adapted for this purpose and therefore references to electoral regions have been changed to constituencies. The form can be signed by the registered nominating officer of the registered party or person authorised by that officer.

Rule 8 is now a standalone provision, setting out the detail of what should be included on the home address form, which is required to be completed as part of the nomination process, and is now Form 10. The content of this form is

largely the same as Form CZ in the 2007 Order, but with the retention policy now clearly stated at the end of the form. There is also space to indicate if the candidate is an individual or party list candidate.

The Order now prescribes the format of the consent to nomination form that must be completed by all candidates (individual and party list candidates) and provides for the electronic submission of the form (rule 9(2)(b)). This is Form 11, and has been adapted from both the consent to nomination form included as part of the nomination pack provided by the Electoral Commission for the last Senedd elections, and the nomination form used for local government elections.

The new form addresses the new requirement for each candidate to provide the name of the Welsh local authority where they are registered in the register of local government electors which was introduced by the Senedd Cymru (Members and Elections) Act 2024.

Rule 10 is a new rule which sets out the requirements for statements of party membership that must be included in consents to nomination. This statement must state whether the candidate has been a member of any registered political party, other than the one for which they are standing, at any time during a period of 12 months ending with the day on which the notice of election is published ("the relevant period"). If the candidate has been a member of one or more registered political parties during the relevant period, the statement must also include the party's registered name or, the party's registered names where there are more than one, and the dates during the relevant period between which the candidate has been a member of the party. This information must detail each party that the candidate has been a member of during the relevant period, other than the party for which they are standing. A 'registered political party' is a party registered under Part 2 of the PPERA 2000 at any time during the relevant period when the candidate is a member, and references to a registered name of a registered political party are to a name of the party registered under section 28 of that Act. This is consistent with the approach taken in local government elections.

Rule 10(5) provides that a party list candidate is not required to include the details of the registered political party on whose list they are included as a party candidate in their consent to nomination form. Form 11 includes notes giving guidance about details required in respect of party membership.

Rule 10(6) provides that a candidate will be guilty of a corrupt practice where they knowingly fail to include a statement of party membership that complies with the above requirements in the consent to nomination form.

The rule relating to deposits (rule 11) has been updated to reflect the new list design introduced by the Senedd Cymru (Members and Elections) Act 2024, whereby the sum of £500 must be deposited for the first party list candidate appearing on the registered political party's list, and £200 for each of the next 5 candidates appearing on that list, reflecting that six seats are being contested in each constituency. Parties will therefore be subject to a constituency maximum of £1,500. The deposit can be made by or on behalf of the party's registered

nominating officer, but there is no longer provision for it to be made by or on behalf of one of the party list candidates. Individual candidates are also required to pay a deposit of £500 as part of the nomination process.

As was set out in relation to the notice of election, given the increase in the size of constituencies under the new system, nomination papers can be delivered to more than one place under rule 12. This was also previously the case in the 2007 Order for regional elections.

Rule 13(7) sets out that the returning officer must take reasonable steps to ensure that the persons entitled to attend nomination proceedings can access the nominations papers for the purposes of inspecting them, where those nomination papers have been delivered electronically.

There are now two rules (rules 14 and 15) relating to decisions as to the validity of nomination papers. Rule 14 deals with decisions as to the validity of an individual candidate's nomination papers, and rule 15 is concerned with decisions as to the validity of party nomination papers. The rules also reflect that a home address form needs to be submitted as part of the nomination process for both individual and party list candidates.

The references to the 2006 Act in both rule 15 and 16 to determine the validity of candidates' nominations have been changed to reflect the fact that the requirements in relation to candidacy have been amended and updated by the Senedd Cymru (Members and Elections) Act 2024.

In accordance with rule 14, in respect of individual candidates, the Returning Officer is required to examine the individual candidate's nomination paper, home address form and consent to nomination form to decide whether the candidate has been validly nominated. Examination of these forms will allow the Returning Officer to, amongst other things, ascertain whether the candidate meets the new residency requirements.

In accordance with rule 15, for party list candidates, again the Returning Officer is required to examine the party nomination form, the home address form of each party candidate, and the consent to nomination form of each of those candidates in order to determine if the party and its candidates stand validly nominated.

Rule 16 has also been updated to reflect the fact that individual and party list candidates can withdraw from candidature. As outlined above, a notice of withdrawal can now be submitted electronically, in accordance with the electronic delivery statement in rule 3. The notice can also be delivered in person, as was the case in the 2007 Order.

Rule 17, which deals with the publication of the statement of parties and other persons nominated, has been amended to address the fact that the statement of parties and persons nominated should include parties that are nominated under the new system for Senedd election. The statement will also need to include the information on party membership captured on the consent to

nomination forms of all candidates, which is consistent with approach taken in the local election rules.

The use of commonly used names in the statement of parties and persons nominated is now a standalone rule (rule 18), whereas in the 2007 Order it was part of the rule dealing with the publication of statement of persons nominated. Again, this reflects the approach taken in the Local Election Rules.

Rule 19 (names that are the same or similar) has also been introduced to the Order to provide that where two or more candidates have a name that is very similar or the same, and those persons have stated that their home addresses should not be published and the relevant home area is the same, the Returning Officer may make amendments or additions to the statement of parties and persons nominated that will help reduce the likelihood of confusion. The Returning Officer must have regard to any guidance provided by the Electoral Commission when making these amendments or additions. Where it is practical to do so, the Returning Officer must also consult the people whose information is being amended or added to. The Returning Officer must notify persons whose particulars are amended, and the Returning Officer's actions here may not be questioned in any proceedings other than proceedings on an election petition. Rule 20 has extended the power to make minor corrections to include corrections to home address forms.

There is now provision in the Order under rules 21 and 22, setting out the process by which nomination papers, consent to nomination forms and home address forms may be inspected. Nomination papers and consent to nomination forms may be inspected by anyone during the 'time for inspection'. This means the ordinary office hours on any day after the last day for the delivery of the nomination papers and before the day of the poll. A person inspecting nomination papers may take a copy, or make extracts, from the papers. The rule also sets out the returning officer must take reasonable steps to ensure that the forms can be accessed for the purposes of inspecting them, where nomination papers have been delivered electronically. Similar provision has been made for the inspection of home address forms.

Home address forms may only be inspected by another individual or party list candidate standing nominated in the same constituency, the election agent or subscriber of that candidate, or another person if the candidate on whose behalf the form is being inspected is an individual candidate who is also acting as their own election agent.

Method of election

Following the nomination procedure and the publication of the statement of parties and persons nominated, the Returning Officer must decide whether the number of persons remaining validly nominated for the constituency exceeds the number Senedd Members to be elected for that constituency. Where it does, the Returning Officer must proceed to hold a poll. This rule (rule 24) concerning the method of election, has been updated to reflect that there are now only constituency elections and to reflect the closed party list system.

Part 3: Contested elections

General provisions

The general provisions set out in Part 3 of these Rules concern the preparations the Returning Officer must make for the holding of a poll.

Rule 25 requires the poll to be taken by ballot. The rule has been amended to reflect the fact that multiple members are to be returned per constituency and references to the 2006 Act have been updated accordingly. For example, sections 8 and 9 of the 2006 Act were substituted by section 8 of the Senedd Cymru (Members and Elections) Act 2024.

Provisions relating to the requirements of the ballot paper are set out in rule 26, and Form 12 (the ballot paper) is introduced at rule 26(3)(a). The ballot paper for regional elections at Form CL in the 2007 Order has been adapted for this Order, and the approach taken in the Local Election Rules and STV Rules has been replicated in terms of party names and candidates used in the prescribed form. The form of ballot paper, which is a sample ballot paper, has also been adapted to reflect that a maximum of eight candidates can be submitted on any party list. The Welsh text on the ballot paper comes before the English, which is in line with the approach taken throughout the Order. The direction for marking the ballot paper is 'vote by putting a cross [x] in the voting box next to your choice'. This wording has been reflected on all relevant forms.

Rule 26(3)(b) introduces Form 13 which are the directions for printing the ballot paper. The directions for printing the ballot paper at a regional election in form CL1 in the 2007 Order (as amended in 2016) has been used as a basis for drafting this form, with regional references changed to constituencies as necessary. The form also now more closely resembles the comparable form in the Local Election Rules to provide as much uniformity between the rules in this Order and the Local Election Rules as possible. The directions allow Returning Officers the flexibility to have the candidates in a party list fall across more than one column. This will decrease the length of the overall ballot paper. Returning Officers will need to ensure that ballot papers are compatible with tactile voting devices.

Rule 27 sets out that the corresponding number list must now be split into two parts. The first part will set out the details of the voters who have been issued with postal ballot papers and the second part will list the voters who have elected to vote in person. The second part replaces form CO in the 2007 Order. The Returning Officer is also permitted to use a form to the like effect. These provisions are reflected in Form 14 (previously Form CM), which is introduced at rule 27(5). The second part of Form 14 requires the recording of the ballot paper number and the elector's number reflecting the approach taken in the Local Election Rules.

There is no longer provision relating to the colour of ballot papers, as this is no longer required now that voters will only give one vote at Senedd elections in future.

The provisions relating to use of rooms in schools and public rooms for the purposes of holding a poll or counting votes (rule 30) has been updated and made more accessible to the reader.

Action to be taken before the poll

Rule 32 has been amended to reflect that the postal voting statements must include provision for the form to be signed by the elector or the proxy (unless the registration officer has dispensed with the requirement for a signature), and for the date of birth of the elector or the proxy to be stated. This reflects parallel provisions in the Local Election Rules. The rule on the return of postal ballot papers (rule 33) directly follows this rule and the wording has been amended slightly by way of making a cross reference to Schedule 2.

Rule 35 has been expanded slightly to specify that the Returning Officer is required to appoint and pay a presiding officer at each polling station, together with a sufficient number of clerks, in order to conduct the poll, the count, or for other purposes connected to the election. References to the poll and the count have been added to this rule to ensure the rule is comprehensive. Paragraph (2) has also been extended to provide that individual and party list candidates are prohibited from being appointed as presiding officers or polling station clerks.

Rule 36 has been reformatted to specify the different types of official poll card that must be issued, to cover all potential scenarios. These are:

- poll cards to electors not voting by post,
- a postal poll card to electors voting by post not proxy,
- a proxy poll card to a person voting as proxy and not by post, and
- proxy postal poll card to a person voting as proxy for an elector by post.

In the case of an anonymous entry, the rule now states that the appropriate form should be sent or delivered in an envelope or other form of covering, so as not to disclose that the elector has an anonymous entry. The relevant forms of poll cards are introduced at rule 36(4) and have been adapted to reflect the approach taken in the Local Election Rules and to take account of the fact that there will only be constituency elections in the future. Form 15 (previously CN1) is the electors form of poll card, Form 16 (previously CN2) is the proxy's form of poll card, Form 17 (previously CN3) is the postal voter's form of poll card, and Form 18 (previously CN4) is the postal proxy's form of poll card. There is provision at article 36(5) which confirms that the date and hours of the poll and the situation of the elector's polling station do not need to be included poll cards issued to postal or postal proxy voters.

The rule setting out the equipment that the Returning Officer must provide each presiding officer with (rule 37) has been expanded to include copies of notices issued under section 13B(3B) or (3D) of the 1983 Act, so far as they relate to the relevant register of electors, and specific reference is made to the copies of the parts of any lists of persons entitled to vote by post or by proxy that correspond to the relevant register of electors. The register of electors allotted to the polling station, and the lists provided for in this rule, may now be provided in paper or electronic form. Provision to deal with the handling of ballot papers

for constituency and regional ballot papers together is no longer required so has also been removed.

Rule 37 also specifies that the enlarged display and hand-held sample copies of the ballot paper, for the assistance of voters who are partially-sighted, must comply with article 138(4) and (6) of the Order respectively. They must be clearly marked as a specimen.

The paragraph relating to the provision of a Tactile Voting Device (TVD) in the 2007 Order has now been replaced with a new, broader requirement intended to expand upon the narrow TVD requirement. Paragraph (7)(b) and paragraph (8) introduce requirements for the provision of such equipment as it is reasonable to provide for the purposes of enabling, or making it easier for, voters with disabilities, including (but not limited to) those who are visually impaired, to vote independently in the manner directed by rule 46, which includes the procedure to mark the ballot paper secretly. This is to reflect changes introduced by the Elections Act 2022. It is considered that not specifying equipment and measures allows for a greater degree of flexibility, ensuring the changes will cover emerging improved technology in the future.

There is also now a requirement on the Electoral Commission to provide guidance to support Returning Officers in carrying out the new, broader requirement set out above to provide assistive equipment, and for them to consult such people as they consider appropriate on this guidance. There is also a duty on Returning Officers to have regard to that guidance. The Elections and Elected Bodies (Wales) Act 2024 also implements measures to complement the changes brought into effect by this Order, which require the Electoral Commission to report on the steps taken by Returning Officers at elections to assist disabled persons in line with the new requirements.

Rule 37(10) introduces the form of directions for the guidance of voters in voting that Returning Officers must ensure is displayed in polling stations. This was previously Form CP in the 2007 Order and is now Form 19. Although not included in this Order due to technical limitations, for accessibility purposes, in practice we would recommend that these instructions should be accompanied by instructional images to assist the voter.

The written notice of an appointment of polling and counting agents must now include the e-mail addresses of those appointed, if available (rule 38(4)(a)).

Rule 39 is now a standalone provision, covering matters previously set out under rule 38(7) to (12) of the 2007 Order. The rule also now allows for the delivery of notices to counting agents by e-mail. The Returning Officer must also ensure that every person attending a polling station, save for those voting and their companions, any person under the age of 16 accompanying a voter, those assisting a voter with disabilities, or a constable on duty, has been given a notice setting out that they must maintain, and aid in maintaining, the secrecy of the ballot.

The poll

Rule 41 has been amended to set out in a standalone sub-paragraph to the one dealing with agents, that individual and party list candidates are not excluded from the polling station. In addition, the rule now explicitly states that the Returning Officer and their staff are not excluded. The provisions relating to where a constable or person employed by a Returning Officer can vote in person have been separated. In addition, the definition of a constable is described as including a person designated as a community support officer or community support volunteer under section 38 of the Police Reform Act 2002.

The format of Rule 44, which sets out the questions to be put to voters, has been adapted for clarity purposes. Table 1 and table 2 set out the exact circumstances of the voter and the exact questions a presiding officer may ask that voter. Where required to answer one or more of the questions in table 1 or 2, that person can only be issued with a ballot paper when the questions are answered satisfactorily. The rule also sets out what is meant by 'the copies of the registration records', meaning the copies of the relevant register of electors and copies of any notices issued under section 13B(3B) or (3D) of the 1983 Act relating to the relevant register of electors.

The formatting of the rule setting out the voting procedure (rule 46) has been updated to reflect the drafting in comparable election rules for devolved elections. The substance has not changed, but for clarity purposes rule 46 provides as follows:

- When a voter requests a ballot paper, they must be given one. Immediately before the ballot paper is given the number of the elector, as set out on the electoral register must be called out. The name of the elector, as set out on the electoral register must also be called out, unless the elector has an anonymous entry.
- The number of the elector must be marked on the polling station's corresponding number list beside the number of the ballot paper that will be issued.
- A mark must be placed on the electoral register at the polling station against the elector's number to show that a ballot paper has been received.
- Where the person is acting as proxy, a mark must be placed against that person's name on the list of proxies.
- Where an elector has an anonymous entry on the electoral register, the elector's official poll card must be shown to the presiding officer before the ballot paper is given (and a ballot paper must not be given if the elector does not have their official poll card) and only the number may be called out.
- Once the voter has received the ballot paper, they must immediately go into one of the compartments in the polling station.

- The voter must then secretly mark the ballot paper, fold the ballot paper up so that the vote is concealed, show the presiding officer the back of the ballot paper so that the number and other unique identifying mark can be seen, and then put the ballot paper into the ballot box in the presence of the presiding officer.
- As soon as the voter has put the ballot paper in the ballot box, they must leave the polling station.
- If the voter is in the polling station, or in a queue outside the polling station, at the close of poll and has not yet had the opportunity to cast their vote, the presiding officer must permit them to cast their vote as soon as practicable.

The rule also confirms that the meaning of ‘the copies of the registration records’ is as set out in rule 44. This definition also applies to rules 47, 49, 50 and 51.

The formatting of the rule setting out how a voter may ask the presiding officer to place the mark on their behalf if they have a severe sight impairment, or other impairment or are unable to read (rule 47), now follows that which applies in the Local Election Rules. However, the references to ‘blindness’ have been changed to ‘severe sight impairment’, as is consistent with other parts of the Order.

Rule 48 in the 2007 order has been split across two rules in this Order (rules 48 and 49) to make it easier to read. These rules enable voters who have a severe sight impairment, or other impairment or who are unable to read to apply to the presiding officer to be allowed to vote with the assistance of a companion. In order to make it easier for disabled people to be supported by companions at Senedd elections, the qualification criteria for companions have been changed to any person over the age of 16, so long as they have not previously assisted more than one disabled voter to vote at the election. This mirrors the approach taken in the Local Election Rules. These changes have been reflected in Form 20 (previously CQ) and Form 21 (previously CQ1) which are the forms of declaration to be made by the companion, and the equivalent form in the event of polls being combined. The latter form is as modified by paragraph 14 of Schedule 3 and paragraph 14 of Schedule 4 to this Order. There is now instruction on this form with regards to how to complete the form where the voter is anonymous.

The provisions on tendered ballot papers have also been split across two rules for accessibility purposes. Rule 50 sets out the circumstances where a voter can apply for a tendered ballot paper and sets out the procedure for casting that vote, once the voter has satisfactorily answered the prescribed questions as set out in rule 44. Rule 51 sets out the duties of the presiding officer in relation to tendered ballot papers.

The rule relating to spoilt ballot papers (rule 52) has been amended to reflect that there will only be one ballot paper issued at future Senedd elections.

There have been a few changes to rule 55 which sets out the procedure that must be followed by the presiding officer on close of the poll, and specifically, as soon as practicable after every voter has cast their vote. There is now provision in paragraph (3) of the rule to deal with the sealing up of postal ballot papers delivered to polling stations, which have not otherwise been collected by the Returning Officer. This is the equivalent to the previous rule 55(7) in the 2007 Order. Provision relating to the collection of such postal ballot papers or postal voting statements from the polling station before the close of the poll is now dealt with in Schedule 2.

As has been set out previously, there is provision in these rules to facilitate the use of electronic devices for the registers/corresponding number lists at the polling stations. Rule 55 allows for documents to be sealed in physical packets or electronic packets, and seals that are applied to those packets may be applied physically or electronically. The rule also permits physical lists to be printed and sealed at a different location if required. The presiding officer must deliver the sealed ballot boxes and packets to the Returning Officer, or cause them to be delivered, in accordance with the security and access arrangements approved by the Returning Officer.

Counting of votes

All rules in relation to the count have been reformatted to reflect the approach taken in the drafting of the Local Election Rules. The new formatting is more accessible for the reader. There are now separate rules setting out the arrangements for the counting of votes and for the attendance at the counting of votes. These provisions were previously combined in rule 54 of the 2007 Order. The list of people entitled to be present at the counting of votes in accordance with rule 57 now includes constables on duty, which was not the case in the 2007 Order. As such, the rule also sets out that a reference to a constable includes a reference to a person designated as a community support officer or community support volunteer under section 38 of the Police Reform Act 2002. There is also provision in this Order for the Returning Officer to ensure that everyone attending the count has been given a notification of the requirement of secrecy in line with section 66(2) and (6) of the 1983 Act.

The provisions dealing with the verification of ballot papers, including postal ballot papers, prior to the count beginning, provides further detail than was set out in the 2007 Order. These provisions now require the following actions to be taken:

- Before counting begins the Returning Officer must, in the presence of the counting agents, open each ballot box, take out the ballot papers, count them and record the number. The Returning Officer must not count any tendered ballot papers.
- The Returning Officer, again in the presence of the counting agents, must verify each ballot paper account by comparing it with the number of ballot papers recorded, the unused and spoilt ballot papers in the Returning Officer's possession and the tendered votes list.

- Following this the Returning Officer must draw up a statement setting out the result of the verification process and give a copy of this statement to any election agent that requests it.
- The Returning Officer must also count the postal ballot papers that have been properly returned. This means a ballot paper and a properly completed accompanying postal voting statement which have been handed in at a polling station in the constituency before the close of poll (a person standing inside the polling station or in the queue for the polling station is entitled to hand in their postal vote and it will be counted), given by hand to the Returning Officer before the close of the poll, or received by the Returning Officer by post before the close of poll. In this instance a properly completed postal voting statement will be signed by the elector or by the proxy (unless the requirement for a signature has been dispensed with) and will state the date of birth of the elector or the proxy.
- As part of the processes for the verification and counting of votes cast, there is now a requirement in these rules that the ballot papers are to be face up. Such precautions must be taken as appropriate to prevent anyone seeing the numbers or other unique identifying marks on the back of the papers.

Rule 59 is now a standalone rule which deals with the requirement for a continuous count as far as possible, only allowing time for refreshment. It also provides for the exclusion of any hours between 7pm and 9am the following morning, and related security requirements. These provisions were previously set out in the 2007 Order under rule 55 (the count).

The new rules then go on to set out provisions relating to rejected ballot papers which is a deviation from the order of rules in the 2007 Order. The formatting of rule 60 has also been updated to ensure clarity, however, the substance of the rule has not changed. Similarly, the formatting of rule 61 dealing with re-counts has been modernised, and there is now, as has been the case throughout the Order, only provision for constituency elections to reflect the new electoral system.

Part 4: Final proceedings in contested and uncontested elections

There is a new rule (rule 63) dealing with the ascertainment of results at a contested election, which sets out the steps to be taken after the count and before the declaration. The Returning Officer must ascertain the results of the poll in accordance with sections 8 and 9 of the 2006 Act. These sections, which deal with the calculation and allocation of seats, have been amended following the Senedd Cymru (Members and Elections) Act 2024 to reflect changes to the Senedd's electoral system. The Returning Officer must notify the election agents in writing of the place and time the Returning Officer will begin to ascertain the results of the poll, along with such other information as the Returning Officer consider appropriate.

Only the Returning Officer and their staff, each individual candidate and party list candidate (and one other person chosen by each of them), the election agents, and any person who is entitled to attend under sections 6A to 6D of PPERA 2000, may be present at the proceedings, unless otherwise permitted by the Returning Officer to attend. Other people will not be permitted to attend if it would affect the efficient ascertainment of the results. The Returning Officer would have also had to have consulted the election agents or otherwise decided that it is not practicable to consult them. The Returning Officer is also required to provide the election agents and candidates with such reasonable facilities to oversee the proceedings as they are able to give as is consistent with the orderly conduct of the proceedings, and the discharge of the Returning Officer's duties. This would include information on the proceedings.

When the Returning Officer has provisionally ascertained the results of the poll, the Returning Officer must notify, if they are present, an individual candidate or the candidate's election agent, and the election agent for a registered political party standing nominated, or in absence of the agent, one of the candidates on the list submitted by that party, of the provisional ascertainment. These people could ask the Returning Officer to ascertain provisionally those results again (and they must be given reasonable opportunity to make that request), but the Returning Officer can refuse this request if the Returning Officer thinks it is unreasonable. These steps can be repeated where the Returning Officer has provisionally ascertained the results again at the request of those listed above. If there is no request for further provisional ascertainment, or the Returning Officer has refused to make a further provisional ascertainment, the Returning Officer is deemed to have completed ascertaining the results of the poll.

If the Returning Officer is required to draw lots to ascertain the results of the poll under section 9(9) of the 2006 Act, the seat must be allocated to the individual candidate or party on whom the lot falls.

There is now a specific requirement in rule 64 to announce the individual candidates or the registered political parties to whom seats have been allocated, together with the names of the party list candidates who are to fill such seats; and declare, those individual or party list candidates to have been elected in both in Welsh and English. This is also the case with the publication of the notice setting out the name of any individual candidates elected, the name of any party list candidates elected and the name of their registered political party, the total number of votes given for each individual candidate or registered political party (and a breakdown of the number of votes given for each such candidate or party in each constituency), and the number of rejected ballot papers under each head shown in the statement of rejected ballot papers. These Welsh Language requirements are already reflected in practice and are also requirements set out in the Electoral Commission's Returning Officers Performance Standards, which have a legal basis.

Rule 64(5) sets out that, for the purposes of paragraphs (1) and (4), the returning officer may use the commonly used forenames or surnames of the candidates, as shown in the statement of parties and persons nominated.

Rule 64(6)(a) introduces Form 22 which is the form of certificate declaring candidates to be returned at a constituency election. This has been adapted from Form CS in the 2007 Order to apply to constituency elections. It no longer includes reference to the member's address as provisions do not require this and a candidate may have withheld their home address from publication via the home address form.

Part 5: Disposal of documents

In the rule relating to the sealing up of ballot papers at contested elections (rule 66), any reference to ballot papers relating to different elections has been removed as there will only be one vote cast on one ballot paper. The rule also now specifies that the Returning Officer must not permit access to any of the packets listed in rule 55. Rule 67 now specifies that the forwarding of documents to the registration officer at contested elections must be undertaken securely. In addition, the relevant registration officer must make arrangements to securely store all documents received under the rule, and prevent any unauthorised access to the documents.

The rule relating to an order for the production of documents in the 2007 Order now sits across two rules: rule 68, which covers the production of documents, and rule 69, which sets out the steps which must be taken if an order for the production of documents is obtained. Although the formatting of these rules has changed, the substance largely remains the same. However, rule 69 does provide for the production of electronic or paper documents that are in the registration officer's custody or control relating to an election, and which are specified in any order.

In relation to the retention and destruction of documents forwarded to the relevant registration officer, an election court has been added to the list of courts a direction from which would prevent the relevant registration officer from destroying the documents at the end the one-year period.

Rule 71 is a new rule which requires the Returning Officer to destroy each candidate's home address form on the next day following the 35th day after the Returning Officer has returned the names of the elected members. This must happen unless an election petition questioning the election or return of candidates is presented before that day. In that case, the documents must be destroyed as soon as is practicable following the conclusion of proceedings which includes, where there is an appeal, the proceedings of the appeal. It also sets out that any excluded day must be disregarded when it comes to deciding the day on which the home address forms must be destroyed. The excluded days are defined in rule 2 of Schedule 5.

Part 6: Death of candidate

This part of Schedule 5 has changed quite significantly from the 2007 Order to reflect changes to the electoral system. Rule 75 in the 2007 Order relating to the death of a regional candidate has been used as the basis of the new rule 72, which is now a single rule setting out the steps to be taken in the event that a candidate dies before the result of the election is declared. In summary, if the

Returning Officer receives proof and is satisfied of an individual or party list candidate's death at a contested election and the election becomes uncontested, the Returning Officer must countermand notice of the poll, or direct that the poll be abandoned if it has already begun. If, however, notwithstanding that death the election continues to be contested, the notice of poll will not be countermanded, the poll will not be abandoned, and the death is to have no effect on the validity of the election and the return of any other candidate at the election. Although in this case, the Returning Officer must take reasonable steps to publicise in that constituency: the name of the candidate and that they have died, whether they were an individual or party list candidate, and if a party list candidate, the name of the registered political party for which they were a candidate. The Returning Officer will need to consider placing these notices outside polling stations.

Provisions around admission to the polling station and the attendance at the count do not apply in relation to the deceased candidate, as well the forfeiture of deposit where the candidate was an individual candidate.

If the candidate dies after the result has been declared the relevant provision in the 2006 Act will apply.

The drafting of rule 73 relating to an abandoned poll following the death of a candidate, has been modified to reflect the approach taken with the Local Election Rules and to reflect there will only be constituency elections in future.

Part 7: Miscellaneous

This Part has been reordered with provision relating to the return of Senedd Members and the record of returns appearing first. This rule has been updated to allow for the record to be kept electronically. The returns book which will hold the information in the certificate to be issued to the Clerk following the declaration of results under rule 64(6) will in future be known as the returns record. This record will be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, obtain copies from the record.

There is now one rule in the Order (rule 75) dealing with vacancies arising during a Senedd term which reflect changes brought about by the Senedd Cymru (Members and Elections) Act 2024 and related policy changes. Where a seat of a Senedd Member returned as an individual candidate for a Senedd constituency becomes vacant, the Llywydd must record the vacancy in the returns record, and that seat is to remain vacant until the next Senedd general election.

Unless a constituency election is determined to be void by election court, where there is a vacancy and the member returned was a party list candidate, the Llywydd is required to start the process for seeking to fill that vacant seat. The Llywydd must record the vacancy in the returns record and send a notice to the Returning Officer for the Senedd constituency in which the vacancy has arisen, stating that a vacancy exists, the name of the person who had been returned to fill that seat, and the registered political party on whose list that person

appeared. The Returning Officer must then establish the name and address of the person whose name now appears highest on that list. This person will be known as the prospective member. The Returning Officer must then take all reasonable steps to contact the prospective member to ascertain whether they are willing to serve as a Senedd Member for the constituency concerned. The prospective member must be informed of the date, 21-days hence, by which the Returning Officer must have received confirmation that the prospective member is willing to serve. The Returning Officer must also contact the registered nominating officer of the relevant registered political party to notify them that this had happened, and to inform them of the date by which the prospective member is required to respond.

If at the conclusion of that 21-day period the Returning Officer is of the view that steps taken to contact the prospective member have been unsuccessful, or they have not received confirmation from the prospective member then the prospective member will be removed from the list for the purposes of filling that vacancy. This will also happen if during that 21 day period the Returning Officer receives confirmation that the prospective member is not willing to serve as a Senedd Member for that constituency, or the Returning Officer is satisfied that the prospective member is no longer a member of the registered political party on whose list they appeared at the election, and that the registered nominating officer of that party has provided a notice that the Llywydd is not to be notified of the prospective member's name as the name of the person who is to fill the vacancy.

Where a prospective member has been removed from the list for the purposes of filling a vacancy, the Returning Officer must notify the Llywydd of that. The Returning Officer must then repeat the procedure outlined above in respect of the person (if any) whose name and address appears next highest on the registered political party's list. The Returning Officer must continue to repeat the procedure until they have notified the Llywydd of the name of the person who is to fill the vacancy, or until the list is exhausted. Where the Returning Officer is satisfied of the outcome of the above procedure before the 21 day period has expired (i.e. the prospective member will not be taking up the vacancy), they will not have to wait until the end of that period to move on to contacting the next person on the list.

Where it is the case that a prospective member states in writing that they are willing to serve as Senedd Member for the constituency concerned, and the Returning Officer is satisfied that they are eligible, that is, they are either a member of the party on whose list they are to be returned, or the returning officer is satisfied that the nominating officer for that list is not intending to provide a notice that the prospective member is not to be returned within the 21 day period, the Returning Officer must, without delay, notify the Llywydd of the name of that person as the person to fill the vacancy. The Returning Officer must also give public notice of the name of the member to be returned and the registered political party for which such a member was a party list candidate. On receipt of this notification, the Llywydd must record in the returns record the name of the person specified in a notice who is to fill the vacancy, the relevant Senedd constituency, and the date the notice was received.

However, if following this process a seat continues to be vacant, the Returning Officer must, without delay, give public notice that the vacancy cannot be filled and that the seat will remain vacant until the next Senedd general election. This reflects the provision in section 11(7) of the 2006 Act. The relevant certificate will need to be completed and delivered to the Clerk. On receipt of the certificate, the Clerk must record in the returns record that there is a vacancy which will remain vacant until the next Senedd general election.

There is one new exception to this 21-day period, which is where the prospective Member has applied to be re-added to the register of local government electors in Wales and has been advised by the registration officer within those 21 days that they will be re-registered and included in a published version or notice on a particular date which is after the end of that 21-day period. In those circumstances, the Returning Officer will not provide the notification to the Llywydd, which would trigger their return, until the date of the next notice of alteration or publication of the revised register. This is in order to prevent a person who would otherwise be successfully returned to fill a vacancy from being automatically disqualified due only to the fact the next updated register falls beyond the end of the “grace period”. This change was made following feedback that there was a risk of such an occurrence under the original drafting.

Form 23 is a new form introduced at rule 75(11)(a) and it is the form of certificate that the Returning Officer must complete when they have been informed that a prospective member is willing to serve as a member for the constituency concerned. Form 24 (as adapted from previous Form CT) is introduced by rule 75(15)(b) and is the form of certificate that the Returning Officer must complete and send to the Clerk when a party list seat is to remain vacant until the next Senedd election.

Rule 75(18) is a new provision which sets out that for the purposes of rule 75, “the returns record” means the record kept in accordance with rule 74(1).

Rule 76 on registered political parties which details what is meant by a registered political party in the context of the rules has not been amended, save the removal of references to electoral regions. Similarly, provisions relating to regional elections have been removed in rule 77 which deals with the party’s registered nominating officer and the discharge of their functions. However, the language here has been modernised to reflect the principles applied throughout this Order.

Schedule 6 - Control of donations to individual candidates

This Schedule makes provision relating to controlling donations to individual candidates. Previously this Schedule applied to donations to both individual candidates at regional elections and constituency candidates. As in future there will only be individual candidates and registered political parties standing for election, references to constituency candidates have been removed. Registered political parties and the candidates on the lists they submit will continue to be regulated under separate provision in PPERA 2000. The figure

below which a donation can be disregarded has been changed from £50 to £500.

No other material changes have been made to this Schedule.

Schedule 7 – Election expenses

Schedule 7 makes provision in connection with the election expenses of individual candidates.

Part 2 of the Schedule, which lists the matters which are not to be regarded as election expenses, has been amended to include reasonable expenses incurred in providing for the protection of people or property. The purpose of this provision is to exempt safety related expenses from candidate spending limits and reflects the approach taken by the UK Government in relation to reserved elections. The intention is to make an equivalent exemption from party and non-party campaigner spending limits in separate secondary legislation.

In Part 3 of the Schedule, guidance relating to the application of Part 3 of this Order in relation to expenses incurred for the purposes of an individual candidate's election, whether or not election expenses, has been added to the list of matters the Electoral Commission may provide guidance on in the code of practice that they are enabled to issue.

Schedule 8 – Use of rooms in school premises or meeting rooms for Senedd election meetings

Schedule 8 makes detailed provision for the use of rooms in school premises and meeting rooms in connection with Senedd election meetings as permitted by article 71. Paragraph 1 sets out the matters relating to the use of those rooms that are to be determined by Welsh Ministers and is largely unchanged from the equivalent provision in the 2007 Order.

Paragraph 2 sets out that for each Senedd constituency either partly or wholly situated within a local authority area, that local authority must prepare a list of rooms in school premises which candidates are entitled to use, and they must keep that list under review. This list is to also include rooms in school premises outside the constituency. This list and any subsequent changes will need to be provided to the registration officer by the relevant local authority.

In terms of the list of meeting rooms, paragraph 3 sets out that each local authority, as above, must prepare and keep under review a list of the meeting rooms which candidates are entitled to use. This must include details of where any application to use the room should be sent and rooms in premises outside the constituency. As was the case in the 2007 Order, that list must not include a room if there is a dispute from those who maintain the room that candidates have a right to use it. Again, this list, and any subsequent changes must be provided, to the registration officer by the relevant local authority.

The rest of the Schedule sets out that the lists of rooms must be kept by the relevant registration officer for the Senedd constituency to which they relate,

and that a candidate or an election agent is entitled, during reasonable hours, to inspect the lists or a copy of the lists on publication of a notice of election.

The drafting of the Schedule has been generally updated in terms of the language and format used, and reflects the approach taken in the Order as a whole.

Schedule 9 – Modification of Election Petition Rules 1960

Schedule 9 modifies the Election Petition Rules 1960 (the “1960 Rules”) in connection with their application in relation to Senedd election petitions, and provides an example petition that can be used by those challenging a Senedd election.

Paragraph 2 makes modifications to the definition provisions in rule 2 of the 1960 Rules and sets out the additional defined terms to be read into that provision:

- Candidate – is an individual candidate or a party list candidate for return as a Senedd member;
- The Clerk of the Senedd – is to be construed in accordance with section 26 of the 2006 Act;
- party list candidate – is a candidate included on a list of a registered political party;
- Presiding Officer of the Senedd - is to be construed in accordance with section 25 of the 2006 Act;
- registered political party - is a party registered under Part 2 of PPERA 2000;
- Senedd Cymru election - means the holding of elections for the return of all Senedd members;
- Senedd constituency – is to be construed in accordance with section 2 of the 2006 Act and
- Senedd election petition - is a petition presented in pursuance of Part 4 of the Order.

The remainder of the provisions in the Schedule modify how the 1960 Rules are to be read and applied where a Senedd election petition is presented.

The form of petition template is referred to in rule 4 of the 1960 Rules, and is set out in Schedule 1 to those Rules. Rule 4 provides that the form can be to the like effect with such variation as the circumstances may require. It also prescribes the information that needs to be set out within the petition.

Therefore, the example form set out in paragraph 7 of Schedule 9 has been drafted to reflect the necessary modifications to apply to challenge of a Senedd election. This enables the form/template to be more accessible and to be drafted in bilingual format. The form/template has been redrafted in its entirety to improve its accessibility and to ensure it is as user friendly as possible. The redrafting of the form also has the effect of providing a document that could be filed with the court when challenging a Senedd election.

Schedule 10 – Appendix of forms

Schedule 10 contains an appendix of forms prescribed for use under the Order. There is an explanation of these forms within this memorandum to correspond with where they are introduced in the Order.

Schedule 11 – Consequential amendments

Schedule 11 contains amendments to other legislation consequential upon the Order.

Schedule 12 – Revocations

Schedule 12 lists a number of other pieces of secondary legislation which will be revoked when the Conduct Order is made. These revocations are subject to the savings provisions detailed in article 1.

5. Consultation

Formal consultation

A 12 week consultation ran from 25 November to 17 February on the draft Order and the draft accompanying explanatory memorandum. The consultation was drawn to the attention of a wide audience of key stakeholders including the Electoral Commission, the Association of Electoral Administrators, Local Authorities, Returning Officers, the Electoral Reform Society, the Democracy and Boundary Commission Cymru, the Welsh Language Commissioner for Wales, RNIB, Disability Wales. A summary of the consultation responses will be published on the consultation page on the Welsh Government's website².

Consultation was carried out with the Information Commissioner's Office in accordance with Article 36 (4) of the General Data Protection Regulation.

Consultation was carried out with the Ministry of Justice and the Lady Chief Justice's Office.

Duty to consult

Before making an order under section 13 of the 2006 Act, section 7(1) and (2)(f) of PPERA 2000 requires the Welsh Ministers to consult the Electoral Commission in connection with an order made under section 13 of the 2006 Act.

As well as the regular engagement with the Electoral Commission on the development of the Order, informal engagement between WG officials and the Electoral Commission took place from July 2024.

² [Draft Senedd Cymru \(Representation of the People\) Order | GOV.WALES](#)

PART 2: REGULATORY IMPACT ASSESSMENT

6. Options

Policy Context

The National Assembly for Wales (Representation of the People) Order 2007 (the 2007 Order) sets out the detailed rules for the conduct of elections to Senedd Cymru. It sets out the way in which the election and the election campaign are conducted and includes provisions for legal challenge to an election.

The 2007 Order has been reviewed, and has generally been amended, before each Senedd election to reflect any relevant policy or legislative changes that have taken place since the previous election. The amending Orders have also made any relevant technical and/or minor updates such as amendments to certain limits to candidates' expenditure. The 2007 Order is therefore a much-amended piece of legislation which is becoming increasingly complex and difficult to follow. As a result, it is no longer considered to be fit for purpose and is to be replaced by the Senedd Cymru (Representation of the People Order 2025 (the draft Order).

Many of the provisions of the 2007 Order have been restated in the draft Order. However, the language has been updated where appropriate to improve clarity and accessibility. The draft Order now reflects the following:

- substantive changes brought about by the Senedd Cymru (Members and Elections) Act 2024,
- the strengthening and modernisation of the undue influence offence,
- provisions to improve the accessibility of Senedd elections for disabled people,
- changes to provisions in relation to notional expenditure,
- changes made by the UK Government in relation to the issue and receipt of postal ballot papers, which means it is no longer possible to combine this process when the polls of a Senedd election are combined with a police and crime commissioner election.

These are set out in detail earlier in this memorandum.

Options

In preparing this Regulatory Impact Assessment (RIA), only one option has been fully assessed:

- * **Option 1:** To introduce a new consolidated bilingual order to replace the 2007 Order and related amending orders in time for the 2026 elections. The draft Order will make legislation on the conduct of Senedd elections easier to navigate, with modern and clear language which is accessible to the reader.

Another option would be to do nothing. However, this would mean that the existing 2007 Order would not reflect changes made by the Senedd Cymru (Members and Elections) Act 2024 and, therefore, the necessary secondary legislation would not be in place to support the running of a Senedd election in 2026 under the new electoral system. Due to the impact of this option, this has not been considered as part of this RIA. Similarly, the option of introducing a further amending Order has not been considered as it would mean that the legislation that governs the running of Senedd elections would be even more fragmented and difficult to follow for candidates, parties and those responsible for delivering elections.

Preferred Option

Since the preferred option is to make the draft Order, it is expected that the following areas would have cost implications:

- Provisions to improve the accessibility of polling stations for disabled people,
- Changes to the undue influence offence,
- Changes to the notional expenditure provisions, and
- Changes to reflect the new Senedd electoral system

Where appropriate, reference has also been made to relevant information provided as part of the RIA's published with the Senedd Cymru (Members and Elections) Act 2024 and the Elections and Elected Bodies (Wales) Act 2024. For example, in relation the costs to the Electoral Commission in drafting election-related guidance.

Other changes to the 2007 Order have been considered within this regulatory impact assessment where it is considered necessary to illustrate why there are likely to be no cost implications. An example of this would be the changes to provisions relating to sending of free election post. Consideration has been given to the areas where there will be a change in processes, and these are examined below.

7. Costs and benefits

Postal Voting Statement Correction Procedure

The costs and benefits relating to the Postal Voting Statement Correction Procedures, which were included in the draft Explanatory memorandum published for consultation, have been removed. Having considered the feedback received from stakeholders during the consultation period, a decision has been made to defer implementation of the correction procedure. This will allow further engagement to be undertaken with electoral administrators to develop and refine the procedure and explore options for introduction later.

Provisions to improve the accessibility of Senedd elections for disabled people

As was set out in the RIA accompanying the Elections and Elected Bodies (Wales) Act 2024, we want to ensure the physical environment in which voting takes place is accessible for all voters at Welsh elections. As part of the policy development process for that Act we considered how provision could be made in Welsh legislation.

As such, the draft Order reflects changes made in the Elections Act 2022 to the rules relating to UK Parliamentary elections which introduced a new broader requirement for Returning Officers to provide such equipment as is reasonable for the purposes of enabling, or making it easier for, disabled people to vote independently and subject to the identified needs of disabled voters. There is a requirement for the Electoral Commission to consult on and issue guidance on how Returning Officers should fulfil this duty and a requirement for Returning Officers to have due regard to the Electoral Commission's guidance. It is intended that changes introduced for Senedd elections through the final Order will also be considered in due course in respect of the Welsh Local Elections Rules³.

As part of the wider package of non-legislative changes, we will work with the Electoral Commission, electoral administrators and other stakeholders to consider further guidance and training for polling station staff to better support disabled people. It is expected that any additional costs relating to this will be met by the Welsh Government within existing budgets.

Work is being undertaken to consider how an audio solution could potentially be rolled out across Wales in a low-cost sustainable way. The consultation to the draft Order will help to inform the next steps, as well as the Electoral Commission's report on the 2024 elections and the RNIB's [2024 turned out report](#).

³ The Local Elections (Principal Areas) (Wales) Rules 2021 and the Local Elections (Communities) (Wales) Rules 2021

There were examples of low-cost audio solutions implemented by some local authorities in Wales during the UK Government Police and Crime Commissioner and General elections in 2024, with QR codes linked to a recording of the ballot paper being provided and also examples of provision of a telephone service.

Costs

The RIA for the Elections and Elected Bodies (Wales) Act 2024 sets out some initial costs associated with reflecting changes made through the Elections Act 2022 for reserved elections. The equipment required as a result of provisions implemented following that Act and the associated accessibility guidance for Returning Officers, is already provided as part of accessibility packs for reserved elections.

There would be additional costs for the Electoral Commission relating to producing guidance to Returning Officers on assisting disabled voters at elections in a Welsh context. It is likely that this would be similar to guidance already produced for reserved elections, therefore costs would likely be low if the provisions in the draft Order are unchanged following the consultation process.

The guidance produced by the Electoral Commission in respect of reserved elections does not currently specify the purchase of specific costly equipment (beyond those already required). However, in exercising the proposed duties of Returning Officers to support disabled people, there may be additional costs.

To ensure the accessibility of polling stations for voters with severe sight impairment and partially sighted voters, the 2007 Order provides that all polling stations must be equipped with a tactile voting device. Therefore, this equipment is already available, and additional costs associated with this Order will be zero.

However, for illustration purposes, the potential costs relating to implementing various audio solutions across Wales are set out below. These particular options were trialled and evaluated as set out below.

It is anticipated that the Welsh Government will provide funding to local authorities for any additional burdens arising from these requirements.

Option 1: Audio Player

Cost	Approx. Unit Costs (June 24)	Total Amount needed	Total Cost ⁴
Audio Device	56.09	1 per station (2400 stations)	134,600

⁴ Costs rounded to the nearest 100

USB Stick	5.99	3 per station (2400 stations / 7200 required)	43,100
USB Duplicator	701.20	1 per constituency (16 constituencies)	11,200
Headset	13.99	1 per station (2400 stations)	33,600
Total Estimated (Maximum) Cost			222,500

It should be noted that these figures present the absolute maximum cost for implementing such a device in all polling stations. It is considered unlikely that all local authorities would choose to use this particular audio device given some of the more cost-effective audio solutions available. Therefore, an assumption of around 20 percent of the total estimated figure would be considered probable. As cheaper alternative solutions become more widespread, voters may prefer to use their own equipment.

The Welsh Government recently worked in partnership with the RNIB and local authorities to undertake two accessible voting trials on potential solutions to help ensure that voters with severe sight impairment and partially sighted voters are able to vote independently and in secret. Various voting solutions were tested at the events, including the existing Tactile Voting Device, a new tactile ballot paper overlay produced by the Scottish Government, audio solutions to assist with ballot paper information and a mock telephone ballot paper information line. The report of those trials will be published on the Welsh Government's website.

If any of these solutions are implemented widely, there will be a small additional costs for a similar tactile voting solution to the cardboard ballot paper overlay trial. The cost of this is estimated to be around £2.00 per unit, if purchasing a bulk order, so any costs will be dependent on the implementation of the overlay.

Local Authority staff costs: It is considered that additional staff costs for recording and checking the ballot paper recordings would be minimal. It is anticipated that any additional burden payments from widespread implementation of solutions would be met by the Welsh Government.

Option 2: QR Code

Cost	Unit Costs (June 24)	Total Amount needed	Total Cost
QR Code production	Minimal	1 per constituency	Minimal
Youtube Channel	NO COST – It is assumed that most Local Authorities, if not all, have an	1 per constituency	One per constituency

	active You tube channel.		
Total Estimated Cost	likely to be negligible to no cost		

There are other accessible QR code apps available which could be explored by local authorities, which use the device's accessibility features to provide the user with the information.

Option 3

Telephone service

A ballot paper reading telephone line has been provided in Northern Ireland since 2022. The service allows the voter to hear a reading of the relevant ballot paper.

Based on costs of implementing similar services, it is estimated that costs to implement a Wales wide ballot paper reading telephone system for the Senedd elections in 2026 could fall in the region of £7000. This would cover the costs of outsourcing the recording function to a suitable company, technical assistance with the development of audio files to allow for user navigation whilst utilising the telephone service and BT related costs in setting up a number, or up to 16 numbers, for voters to call within their constituency.

However, if such a service was provided locally by Local Authorities, this cost is likely to be much lower as existing telephone services could be utilised.

Benefits

It is considered that the provisions included in the draft Order would go some way to further ensuring that people with a wider range of impairments are supported in polling stations, thereby improving accessibility in voting and protecting that fundamental democratic right.

The provisions in the draft Order also allow for a greater degree of flexibility by not specifying equipment and measures, thereby ensuring the changes will cover emerging and improved technology and solutions. Including provision for the Electoral Commission to provide guidance will also ensure that the guidance can be consulted upon and updated as necessary.

These steps also compliment changes introduced by the Elections and Elected Bodies (Wales) Act 2024 which require the Electoral Commission to report, within their reports on Senedd and Local Government elections, on the steps taken by Returning Officers at elections to assist disabled people.

An advantage of the proposed approach is that equipment already purchased for reserved elections can be used to support disabled voters in Welsh elections and vice versa.

It is considered that the success of any potential roll out of audio solutions would likely to be improved where elections are planned, as would be the case with the Senedd election in 2026.

Undue influence Offence

Undue influence is the electoral offence where an individual seeks to apply pressure to force an elector to not vote or vote in a way they would not have done if pressure had not been applied.

The electoral offence of undue influence in relation to Senedd elections, is currently set out in article 81 of the 2007 Order, and is one of the historic electoral offences, alongside bribery and treating.

A number of reports (e.g. Electoral Commission, Parliamentary Committees⁵) recommended the offence should be redrafted and modernised. Work was subsequently taken forward by the UK Government to strengthen and modernise the language of the offence, with amended provisions being introduced to the Representation of the People Act 1983 (new section 114A) via the Elections Act 2022. The newly defined offence, which applied in respect of reserved elections, was particularly strengthened in regard to damage to a person's reputation and around intent. The previous definition, where there was more of a focus on physical harm, did not exclude reputational damage specifically but in the new definition there is equal importance given to it.

The new definition was further improved by clarifying the importance of 'intent' in the commission of the offence. The phrase, "for the purpose of", which is contained in the new section outlining the elements of the offence, demonstrates that the intent of the person carrying out the activity is key. To be guilty of undue influence it is enough to establish an intent to unduly influence a person, even if the activity was not actually successful in this regard.

Officials have considered this strengthened language describing the offence of undue influence and propose extending the new defined offence to Welsh elections.

These changes have already been made in connection with local elections in Wales through the Elections and Elected Bodies (Wales) Act 2024, and the same change will be made in relation to Senedd elections via the draft Order.

Costs

Increased monitoring and enforcement costs

As set out in the RIA for the Elections and Elected Bodies (Wales) Act 2024, the Elections Act 2022 Impact Assessments suggested that any increase in cases of undue influence could translate into an increase in costs for the police,

Sir Eric Pickles report [Securing the Ballot](#)
Cabinet Office report [Protecting the Debate](#)

courts system and prosecutors. However, the Impact Assessments also acknowledged the number of reserved elections where such enforcement would be required would be low.

With respect to Welsh elections, there is expected to be no increase in cases or a low number of cases. Cases across the UK are already low and even less so at Welsh elections. (The table below sets out the number of cases at recent elections). Since 2013, the Electoral Commission's electoral fraud data indicates that of four possible cases of undue influence which could have been prosecuted, three resulted in no action and there is no data available on the fourth.

Cases of Undue Influence offences in recent elections

Year	Election type	Number of cases	Outcome
2013	Local elections in Wales	3	No further action:2 Data unavailable:1
2021	Senedd election	1	No further action
2022	Local elections in Wales	0	n/a

In line with the approach taken by the Elections Act 2022 Impact Assessments and the RIA for the Elections and Elected Bodies (Wales) Act 2024, these costs have not been monetised as there is no data on how much relevant bodies spend on monitoring and enforcement, relating to undue influence. Similarly, there is no data to indicate how many additional prosecutions there will likely be as we do not know how many allegations / election petitions would have led to further action, had the law been clearer at the time. These costs are therefore unknown at this stage.

The Electoral Commission will need to update its guidance for electoral administrators and polling station staff, setting out what is and what is not allowed at polling stations for Senedd elections. The Code of Conduct for campaigners on what should be considered when campaigning outside polling stations will also need to be updated. The Electoral Commission's public awareness campaigns will also need to be updated with information to electors on undue influence. However, as the Electoral Commission has already been making these changes in respect of the new description of undue influence included in the Elections Act 2022, there should be no additional costs arising as the language of the offence will be once again identical for reserved and Welsh elections.

A Justice Impact Assessment Identification Form was completed to cover all changes to offences within the Order. The MOJ has determined that there is a financial impact. The costs identified are relating to Criminal Court costs and would be less than £5000 per annum.

Benefits

Clarifying the law on undue influence will make it clearer when the corrupt practice has occurred. The main beneficiaries of the updated legislation will be electors and police and prosecutors who are required to consider whether undue influence has been committed when an accusation is made. The clarified language of the redrafted offence will provide disincentives to those who would seek to apply undue pressure to an elector, but will also ensure the offence will be more straightforward to prosecute should cases be brought forward.

Strengthening legislation around undue influence could reduce the incidence of elector intimidation. The improved language of the offence will enable police and prosecutors to have increased confidence in applying the clarified legislation in operational situations.

The provisions have already been introduced for local government elections in Wales through the Elections and Elected Bodies (Wales) Act 2024 and further information can be found in the [Explanatory Memorandum for that Act](#). We would like to achieve a clear and consistent regulatory framework for both reserved and Welsh elections as far as possible. We consider that this change would be beneficial for voters, candidates and campaigners and would reduce potential confusion. Therefore, we propose to introduce equivalent provisions in respect of Senedd elections.

Lower incidence of undue influence and intimidation of electors may increase turnout, as people are likely to feel more comfortable to freely vote and participate in elections. Ensuring the undue influence offence properly reflects the range of activities that can be used to deter electors from voting, or cause them to change their vote, will provide clarity and credibility for voters in relation to Welsh elections.

Notional Expenditure

Part 4 of the Elections Act 2022 expanded and strengthened the law about political finance by, amongst other things, clarifying the rules on notional spending. It made it clear that candidates and agents will only be liable for notional expenditure at reserved elections when that expenditure is directed or authorised by them. Similar changes were made through the Elections and Elected Bodies (Wales) Act 2024 in relation to spending at local government elections in Wales, and spending by political parties at Senedd elections. Details of the cost implications for those changes were set out in the RIAs for both Acts.

For Senedd elections, the draft Order provides that 'notional expenditure' incurred by an individual candidate or their agent will only be considered to be an election expense if the use of the property, goods or services concerned has been directed, authorised or encouraged by the candidate or the candidate's agent. The related costs for this change are set out below.

Costs

The costs arising in relation to the clarification of treatment of notional expenditure would primarily relate to the updating of guidance by the Electoral Commission. We would anticipate that to be minimal, and undertaken in the course of their routine updating of guidance.

Benefits

Whenever there is policy alignment, we want a clear and consistent regulatory framework for both reserved and Welsh elections in Wales as far as possible. It is considered that this is beneficial for voters, candidates and campaigners. Operating two different systems would not be desirable. Therefore, where appropriate, we propose to introduce equivalent provisions in respect of Welsh elections.

Providing clarity around notional expenditure will lead to a greater understanding for all candidates, their agents, political parties and other campaigners. This will ensure that the candidates and their agents will have more confidence that they are not subject to a legal risk that they cannot control. As is outlined above, some changes have already been made in relation to Senedd elections with regard to how political parties are required to account for notional expenditure. The draft Order will make the same changes in relation to individual candidates.

Costs associated with the Senedd Cymru (Members and Elections) Act 2024

The financial implications arising from the implementation of the new electoral system for Senedd elections as introduced by the Senedd Cymru (Members and Elections) Act 2024 have been assessed in detail in the related [Explanatory Memorandum](#). This includes consideration of areas such as potential cost implications of moving from two to one ballot paper.

Two areas that not covered in the Act's Explanatory Memorandum are detailed below. Although no additional costs or benefits are anticipated. They are included in order to illustrate the expected lack of impact on costs relating to those changes.

Sending of Free Election post

Provisions relating to the right to send election address post free of charge within the draft Order apply to—

- individual candidates, and
- the registered nominating officer of a registered political party.

Article 67 of Part 3 of the draft Order makes provision for up to two pieces of free postal communications to be sent per individual candidate or per registered

political submitting a list of candidates to each elector, with there being the choice as to whether the communication is addressed or unaddressed. Those persons are also entitled to send two free postal communications to each person entered in the list of proxies for the Senedd election.

Under the 2007 Order, a party standing in every constituency and every region would, in effect, be able to send two pieces of mail free of charge to every voter (one from the party's constituency candidate, and one from the regional list's nominating officer). As this is equivalent to each constituency list nominating officer being able to send two pieces to each voter in the new system, the maximum available free post for a party will not change.

Costs

Costs paid directly out of the Welsh Consolidated Fund, such as postal costs for candidate mail shots for the 2021 Senedd elections, amounted to £5,503,260. It is anticipated that the costs will be largely unchanged under the new system. However, the specific costs will depend on the uptake of the free post provision.

There may be a slight increase in costs associated with individual candidates, who would qualify for two postings across a new constituency but would only have qualified for one posting if standing in one constituency under the old system. However, it is anticipated that there will be far fewer individual candidates than parties standing for election.

Benefits

The change reflects the need to update the provision to account for the use of sixteen multi-member constituencies under the new electoral system rather than the use of regions and constituencies in the previous system. Failing to update this would result in a drop in the number of free postings a party would be able to send to the electors and the number of elections communications received by the voter. As it seeks to maintain the provision, the benefits are that the ability for parties to contact electors in this way are not reduced.

Party list candidate deposits

Potential costs

Rule 11 in Schedule 5 to the draft Order, which relates to deposits, has been updated to reflect the new electoral system introduced by the Senedd Cymru (Members and Elections) Act 2024.

The sum of £500 must be deposited for the first party list candidate on a party list, and £200 for each of the next five candidates on a party list. This means there is a constituency maximum of £1,500 where a registered political party submits a party list containing six or more candidates. This reflects the fact that

the maximum number of seats that can be contested in a constituency is six. The deposit can only be made by or on behalf of the party's registered nominating officer, and there is no longer provision for the deposit to be made by or on behalf of one of the party list candidates.

These figures differ from those in the draft Order following feedback to the consultation highlighting a potential unfair burden on smaller parties of the original proposals. The new approach also means the total maximum deposit for standing a full slate of candidates is very similar as it is under the current system.

Individual candidates, who are only contesting one seat, are required to pay a deposit of £500 as part of the nomination process.

Deposits are returned where more than 5% of the vote in that constituency is achieved by an individual candidate or party.

Potential cost implications would depend on the number of candidates parties stand in each constituency and whether candidates are more or less likely to lose deposits. Neither of these can be reliably evaluated ahead of the 2026 election which will be run under the new electoral system.

The deposit system is summarised in the following table:

	Current system	New system
Seats	60	96
Constituencies	40 (of 1 seat)	16 (of 6 seats)
Regions	5 (of 4 seats)	0
Cost	£500 per constituency or region	£500 per list contested plus £200 for each additional candidate after the first (up to a maximum of six)
Maximum possible	£22,500	£24,000 ⁶

The highest cost an individual candidate could incur remains at £500. For a party, the maximum is £500 per seat contested.

As parties will be able to stand lists of a length which aligns with their expectations in that constituency, and costs depend on failure to gain 5% in a constituency, it is not felt likely that costs incurred will vary significantly from the current system.

Benefits

The current deposit system is based on having regions and constituencies, and therefore needs to be updated to reflect the change to only having multi-member constituencies.

⁶ Assuming a list of six or more candidates in every constituency.

The changes seek to maintain the same system as for constituencies in the current system of a £500 deposit per seat contested, which is returned if more than 5% of the vote is won by that candidate/party in that constituency.

As such, the benefit is to ensure the established system of deposits is maintained under the new electoral system.

Costs incurred by Returning Officers

The costs incurred by Returning Officers in the delivery of the 2021 Senedd elections amounted to £4,584,209.58. A breakdown of these costs can be found on the Welsh Government website⁷. The Returning Officers Charges Order for the 2026 Senedd election when in force will set out the maximum amount Returning Officers can claim for the delivery of the election. This expenditure is met by the Welsh Government from the Welsh Consolidated Fund.

The data for the 2021 Senedd elections includes the costs of the hire of premises, printing poll cards and ballot papers and staff costs. It also included additional one-off costs which were incurred as a result of Covid 19, reflecting the unprecedented circumstances under which those elections were held. For the same reason, there were costs relating to services rendered by electoral administrators. The costs relating to services will continue to be recoverable under the Order. The Order continues to make provision for the Welsh Ministers to cover superannuation contributions that a local authority may have to pay in connection with fees paid under article 23. These are not additional costs.

Electoral Commission

The costs and benefits to the Electoral Commission as they arise from the Senedd Cymru (Members and Elections) Act 2024 are set out in detail in the explanatory memorandum for that Act. Similarly, the costs implications from the Elections and Elected Bodies (Wales) Act 2024 is set out in related explanatory memorandum.

Summary of illustrated additional costs for Senedd election financial years

Related provision	Maximum expected Cost	Who the cost falls upon
Accessibility of polling stations	£222,500	Welsh Government
Telephone information line	£7000	Welsh Government

⁷ [Senedd elections costs: 2021 | GOV.WALES](#)

Justice costs relating to changes to offences	Less than £5000	Ministry of Justice
Party list candidate deposits	£24,000 - of which is a potential additional cost of £1,500	Political parties

All costs met by the Welsh Government are considered affordable within agreed budgets.

Other impacts

A full Integrated Impact Assessment has been carried out on the impact of the new provisions in the draft Order. The relevant sections can be found on the Welsh Government's website when the final Order is laid.

Justice Impacts

A Justice Impact Assessment has been undertaken with regards to changes to offences in the Order. This has identified nil-low potential impact on the justice system. This is because the applicable offences have either been largely restated or are mirroring the approach taken in existing legislation where there is considered to be low, no or negligible potential impact. Therefore, even where provision relating to an offence has been widened, the impact on the Justice system is anticipated to be the same as the offences themselves already exist, but due to the framework of electoral law in Wales they are implemented in different legislation at different times, depending on the particular devolved election in question. The relevant offences are as follows:

- Undue influence offence - The re-drafting of the undue influence offence introduced by draft Order in respect of Senedd elections replicates that included in the Elections Act 2022 (the 2022 Act) in respect of reserved elections, and the re-drafting of the undue influence offence as set out in the Elections and Elected Bodies (Wales) Act 2024 in respect of local government elections in Wales.
- Offence relating to statement of party membership - There is a new rule in Schedule 5 to the order which sets out the requirements for statements of party membership that must be included in consents to nomination. This rule will set out that a candidate will be guilty of a corrupt practice where they knowingly fail to include a statement of party membership that complies with the requirements in the newly prescribed consent to nomination form.
- Offence relating to imitation poll cards and notifications - This provision has essentially been restated, but has been extended to notifications,

whereas the 2007 Order only made provision in relation to imitation poll cards.

- Offence relating to tampering with nomination papers, ballot papers etc. - There has been a change to this offence. A consent to nomination form, which is a newly prescribed form, is now included in the list of documents that a person can be guilty of an offence by fraudulently defacing or destroying.
- Other offences relating to absent voting - These provisions are largely unchanged from the existing 2007 Order, but the acts listed in the provision relating to other voting offences (which is an existing offence) have been added to the list of acts which, if a person engages in them, they can be guilty of an offence.

The Ministry of Justice has considered the assessment and has determined that there is nil or minimal impact in most areas apart from on the Criminal Courts, where it has determined that there is a financial impact to the Justice System of less than 5,000 per year which will need to continue to be monitored at implementation.

8. Competition Assessment

The majority of the costs associated with the legislation are expected to fall on public bodies. The legislation is not expected to have any negative impact on small and medium sized enterprises (SMEs) in Wales.

9. Post implementation review

The Welsh Government will ensure continuous assessments of how the legislation has taken effect and influenced the policy intent. The costs and benefits against the baseline set out in the RIA will be monitored following implementation.

The Order will be reviewed ahead of Senedd Elections with a view to identifying any required amendments. It is also intended that it will be reviewed following the scrutiny of the Absent Voting (Elections in Scotland and Wales) Bill and any other related changes to elections legislation in the UK.