

Explanatory Memorandum to the Political Parties, Elections and Referendums Act 2000 (Exclusions and Variation of Campaign Expenditure Limits) (Wales) Regulations 2025

This Explanatory Memorandum has been prepared by the Senedd Reform 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 Political Parties, Elections and Referendums Act 2000 (Exclusions and Variation of Campaign Expenditure Limits) (Wales) Regulations 2025. I am satisfied that the benefits justify the likely costs.

Jayne Bryant MS
Cabinet Secretary for Housing and Local Government

10 June 2025

PART 1

1. Description

- 1.1. The Political Parties, Elections and Referendums Act 2000 (Exclusions and Variation of Campaign Expenditure Limits) (Wales) Regulations 2025, (“the Regulations”) make provision for setting the election expense limits for registered political parties for Senedd elections.
- 1.2. They do so through powers given to Welsh Ministers under section 21 of the Senedd Cymru (Members and Elections) Act 2024 (“SCME Act”).
- 1.3. The Regulations also provide for an exclusion for security related expenses and do so through powers conferred on the Secretary of State by paragraph 4 of Schedule 8 and paragraph 4 of Schedule 8A to the Political Parties, Elections and Referendums Act 2000 (“PPERA”). Those powers were transferred to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) Order 2018.
- 1.4. The Regulations amend PERA.

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

- 2.1. The Regulations represent the first time the powers provided by section 21 of the SCME Act have been exercised.
- 2.2. The Regulations relating to expense limits require the consent of the Electoral Commission. Such consent has been received for the Regulations.
- 2.3. Those relating to an exemption for security costs must be made on the recommendation of the Electoral Commission.

3. Legislative background

- 3.1. Section 21(1) of the SCME Act gives the Welsh Ministers the power to make regulations to set Senedd election campaign expenditure limits in connection with section 1 and Part 2 of that Act.
- 3.2. Section 1 of the Act deals with the number of Members of the Senedd and Senedd constituencies, specifying that there are to be 16 Senedd constituencies and six seats for each, giving a total of 96 seats.
- 3.3. Part 2 of the Act deals with the voting system at Senedd general elections and the allocation of seats.
- 3.4. The power enables the Welsh Ministers to amend paragraph 6 of Schedule 9 to PERA. That paragraph concerns limits on campaign expenditure by registered parties for general elections to the Senedd.

3.5. Paragraphs 4 of Schedules 8 and 8A to PPERA allow the Welsh Ministers to amend Part 1 of those Schedules to give effect to a recommendation of the Electoral Commission.

3.6. These Regulations are being made under the affirmative resolution procedure.

4. Purpose and intended effect of the legislation

Election expenditure limits

4.1. The changes to the electoral system brought about by the SCME Act include the removal of electoral regions and a change to 16 multi member constituencies which each return six Members. This means that the existing election spending limits, which are based on the number of electoral regions and single-seat constituencies a party is standing in, no longer work as intended. These Regulations will update them.

4.2. The Regulations will set registered political party limits for Senedd elections by reference to the number of constituencies they stand candidates in and the number of candidates on the party lists they submit for those constituencies.

4.3. It is important to note that any expenses incurred by party candidates is deemed to be party expenditure rather than candidate expenditure, though this is not a change brought about by these Regulations.

4.4. Each party would then have a single national spending limit for Senedd elections, which is simply the aggregate of the appropriate amount for each constituency contested which is calculated by reference to the number of candidates on each list

4.5. The Regulations set the limits in line with the following calculation:

- For each constituency that a party stands a list in, £52,500 is added to their national limit (representing 70% of the maximum).
- For each additional person on each list after the first, up to a list of six candidates, an additional £3,500 is added to their limit (5%).

4.6. The following limits are therefore defined:

List size	Limit
1	£52,500
2	£56,000
3	£59,500
4	£63,000
5	£66,500
6	£70,000
7	£70,000

8	£70,000
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4.7. The figures in 4.6 are set at the levels they are for the following reasons:

- A party which stands a list of at least six candidates in every constituency, which means they are theoretically able to win every seat, will have a total limit of £1,120,000, which has been calculated to be approximately the same as that available to a party and its candidates contesting all constituencies and regions at the 2021 Senedd election, reflecting the policy intention of adapting the existing limits to the new system.¹
- The final figures used were rounded for ease of use. The figures in the consultation were based on estimates of the current total using electorate data from 2021 rather than a precise current maximum, so a slight variation from that in order to provide rounded figures is not considered material.
- In order to reflect the existence of both constituency and regional elections under the 2021 system, both the number of constituencies and the number of candidates are taken into account in how the limits are calculated.
- This is capped at six candidates on a constituency list reflecting that a maximum of six candidates can be returned for a party in each constituency.
- The use of both per-constituency and per-candidate elements reduces the risk of parties standing paper candidates in order to get a larger limit overall. It does this by increasing the number of such candidates that would need to be stood to gain the full limit.

4.8. The limits are the same for each constituency reflecting three things:

- That the limits will be national limits, and parties are therefore able to allocate their spending between constituencies as they see fit.
- That, even if that were not the case, the Democracy and Boundary Commission Cymru is required, when undertaking any future boundary review, to keep the number of electors in each constituency within a 10% tolerance, ensuring all contain a similar number of electors.
- Furthermore, the final proposals from the DBCC for the 2026 election specify that every constituency is a County Constituency and therefore wouldn't attract different rates even if the system differentiated between county and borough constituencies for the purpose of determining spending limits, as the Westminster system does.

¹ Calculations were provided in the consultation document: <https://www.gov.wales/election-campaign-expenditure-limits-for-political-parties-at-senedd-elections>

- 4.9. The per-constituency amount is significantly higher than the per-candidate amount reflecting the high fixed costs associated with standing in a constituency - regardless of the number of candidates - and the diminishing, but non-zero costs of seeking to win more than one seat in a constituency.
- 4.10. Further discussions with the Electoral Commission led to this difference between the per-constituency and per-candidate amounts being greater than was proposed in the consultation, increasing the proportion of the limit gained from standing for a list of one and consequently reducing the additional limit for additional candidates on the list. This was done in order to reduce the difference in limits available between smaller and larger lists while continuing to satisfy the principles above.
- 4.11. When calculating the expenditure limits for a party, the Regulations do so by reference to the number of persons who stand nominated by the party as a candidate for the constituency. For this purpose, it is the statement of parties and persons nominated published by the returning officer for the constituency in accordance with section 13 of the Government of Wales Act 2006 which is the relevant list for the calculation of a party's spending limit. This list has been chosen in order to prevent any 'gaming' of the system by parties who could initially submit a larger list at the start of the process, then reduce it before the deadline and gain a higher spending limit without being eligible for the related deposits.
- 4.12. The overall intention of these Regulations is to adapt existing limits to the new electoral system, and not to undertake a fundamental review of spending limits for Senedd elections. It is our view that such a review would be better undertaken only after at least one election has taken place under the new electoral system to allow for a better understanding of the way in which campaigns may change.

Security cost exemption

- 4.13. The Regulations also exempt security costs from counting towards the campaign expenditure limits registered parties have and controlled expenditure limits third parties have for election expenses. Officials have discussed this with the Electoral Commission, who recommend that the amendment is made.
- 4.14. Through the Elections and Elected Bodies (Wales) Act 2024 and the forthcoming Conduct Order, provisions on intimidation and undue influence offences for elections have been strengthened. The Conduct Order includes provisions to exempt safety-related expenditure from spending limits for individual candidates. Safety-related expenditure is defined in PPERA as 'reasonable expenses incurred that are reasonably attributable to the protection of persons or property'².
- 4.15. The Regulations will apply equivalent exemptions to party and non-party campaigner spending limits, which is in line with the UK Government

² Paragraph 2(1)(ea) of Schedule 8 to PPERA.

approach. By bringing about changes to legislation, this will bring devolved elections in line with the UK approach and meets an important recommendation from the Jo Cox report. The purpose is to support the safety of candidates during election campaigns.

5. Consultation

- 5.1. An eight-week consultation ran from 6 September to 1 November 2024 on the policy proposals for expense limits. The Electoral Commission contacted all registered political parties in Wales to inform them of the consultation when it opened and then did so again in the final few weeks.
- 5.2. A technical briefing session was also organised by the Electoral Commission and all registered parties were invited. One party requested a separate technical briefing, and officials also attended two meetings of the Senedd Political Parties Panel during the consultation and answered technical questions.
- 5.3. Though only a small number of responses were received, there was a wide range of views expressed. The differences in opinion were particularly significant in two areas:
 - Which parts of the current maximum limit (candidate constituency limits, party constituency limits, and party regional limits) should be retained in the new system when calculating the overall maximum national limit; and
 - Whether a party's limit should depend on the number of constituencies it stands in and/or the number of candidates it stands (and therefore seats it contests) in each constituency.
- 5.4. The approach taken has therefore been to aim to minimise change – that is to retain the current overall limit adapted for the new electoral system, and to apportion the limits based on the constituencies stood in by candidates and the number of candidates on a list which balances the range of views which have been expressed.
- 5.5. The most straightforward way to retain the current overall maximum limits is simply to take all the relevant elements that make up the limits for parties and their candidates under the current system and add them together.
- 5.6. Taking the range of views on how that total is built up, the approach taken has been to provide both a per-constituency element and a per-candidate element, but to weight this towards the former. The use of both elements reflects the fact that the current maximum limit is made up of both multi-seat regional and single-seat constituency elements, as well as the stakeholder views in favour of per-candidate limits, while weighting towards the per-constituency element recognises the views of those opposed to a per-candidate element.

- 5.7. The consultation documents and a summary of the responses are available at: <https://www.gov.wales/election-campaign-expenditure-limits-for-political-parties-at-senedd-elections>

6. Electoral Commission consent and recommendation

Election expenditure limits – consent

- 6.1. The SCME Act provides that the making of regulations to set the election expense limits for registered parties at Senedd elections is contingent on the consent of the Electoral Commission.
- 6.2. The legislation provides for formal roles for three bodies in setting the limits, the Welsh Ministers who may make the Regulations, the Electoral Commission who must consent to those regulations, and the Senedd who must approve the Regulations by way of the affirmative resolution procedure.
- 6.3. The approach taken by the Welsh Ministers is outlined above and in the consultation document.
- 6.4. The role of the Electoral Commission is to provide their consent, meaning that the final set of Regulations must be acceptable to the Commission. That, by necessity means working together to come to a final position which reflects all the views expressed, while remaining acceptable to both the Welsh Ministers and the Commission.
- 6.5. Finally, the Regulations must be acceptable to the Senedd in order to garner a majority. This has meant an approach which seeks to as closely maintain the current and well-established limits as far as possible, neutrally adapted to work within a new electoral system.
- 6.6. The resultant proposals are the product of further discussions with the Commission after the consultation, have carefully balanced these considerations, and in doing so, the Welsh Ministers have obtained formal consent from the Electoral Commission to make the Regulations.

Security cost exemption – recommendation

- 6.7. Schedules 8(4) and 8A(4) to PPERA provide the Welsh Ministers³ with the powers to amend Schedules 8 and 8A to that Act to give effect to a recommendation of the Electoral Commission.
- 6.8. The addition of the security cost exemption is one such recommendation, and provision is made in the Regulations on that basis.

³ The functions are conferred on the Secretary of State but were transferred to the Welsh Ministers by virtue of article 45 of and Schedule 1 to the Welsh Ministers (Transfer of Functions) Order 2018 SI 2018/644.

PART 2 – REGULATORY IMPACT ASSESSMENT

7. Options

7.1. Two options are considered:

- **Do nothing**
- **Introduce the Regulations to set new election expense limits for political parties**

7.2. A non-legislative option is not possible in this case as all current limits for party election expenditure at Senedd elections are set out in legislation.

Option 1: do nothing

7.3. Because of the change to the electoral system already agreed by the Senedd which removes regions and party candidate spending, leaving only party constituency spending, there is no option to keep things the same as they were at the previous election. However, it is possible to make no changes to the party limits in PPERA, which would then leave a per-constituency party limit of £10,000.

7.4. Changes already enacted or being brought forward separately in relation to the new electoral system mean that spending by candidates for parties will count as party spending, and all party spending will continue to count against a single national limit. Without further changes to the way this limit is determined, that national limit will be £10,000 multiplied by the number of constituencies they stand a list in. As there will now be 16 constituencies, that would therefore be a maximum of £160,000 per party.

7.5. This contrasts with an estimated maximum limit at the last election for a party standing in every constituency and region, and including the party candidate spending limits, which no longer apply to the new electoral system, of £1,147,493.⁴

7.6. The consequences of not making any changes to the limits would therefore see the spending limits of political parties who stand across Wales reduce by more than 85%.

Option 2: make the Regulations

7.7. The Regulations seek to maintain the same overall maximum party limit, based on the aggregate of the party constituency limits, party candidate constituency limits, and party regional limits.

7.8. This means that for a party which contests every constituency, and which stands at least six candidates on each constituency list, there will be no

⁴ Calculations were provided in the consultation document: <https://www.gov.wales/election-campaign-expenditure-limits-for-political-parties-at-senedd-elections>

overall change in the total spending limit. The way the limit will be calculated is outlined in section 4 above.

- 7.9. It is worth noting that, due to the purpose and context of these Regulations being brought forward, this option more closely represents maintaining the *status quo* than option 1.

8. Costs and benefits

- 8.1. As the Regulations concern spending limits for political parties only, and not either the use of public funds, the processes relating to the reporting or restrictions on specific use of those funds, or a requirement to spend up to the limit, there are no financial costs to either option to the public, or to any stakeholders. This section therefore considers the wider benefits and disbenefits of the options considered.

Option 1: do nothing

- 8.2. If nothing is done, then, as outlined above, spending limits for parties at Senedd elections will be a small fraction of the level they have been since the advent of modern devolution.
- 8.3. This would heavily reduce the ability of parties to campaign in that election, which is a fundamental part of the democratic process in Wales. This, in turn, would risk significantly reducing the awareness of the electorate to the policies being proposed by the parties, and therefore reduce their ability to make an informed decision.
- 8.4. The consultation received some responses which sought a general reduction in campaign spending or a complete removal of any legitimate spending at all. Doing nothing would partly achieve this through the drastic reduction in limits.
- 8.5. However, if the Senedd wishes to significantly reduce the overall limits for party spending, this would be better achieved through a positive decision to do so, and an analysis of whether the fall-back amount of £10,000 per constituency is the right amount. Doing nothing will instead default to a figure which was set in a very different context and designed to be only one part of three sources of the limit.

Option 2: make the legislation

- 8.6. The benefit of making the legislation is that party spending (including party candidate spending) will continue to be permitted at the same level as currently.
- 8.7. The reasons for the specific approach are outlined in paragraph 4.7.
- 8.8. The benefits of this approach are to provide as great a degree of continuity for party spending limits as is reasonably possible, and therefore not requiring a fundamentally different approach from parties in 2026 and beyond.

- 8.9. The benefits of the exact formulation are that they fully take into account the different elements of the new electoral system, and the fact that Senedd elections are moving from a two-routes to election system (regions and constituencies) to a single unified system (multi-member constituencies).
- 8.10. Disbenefits include the need for parties to work with a changed formula for calculating their limit. Clear guidance will help to mitigate this risk.
- 8.11. The security exemption makes clear that spending limits do not apply to this type of spending, and supports the safety of candidates during election campaigns. However, the costs of providing these services will still have to be funded by campaigners and parties.
- 8.12. This will bring devolved elections in line with the UK approach.

9. Competition Assessment

- 9.1. A competition assessment is not applicable for these Regulations.

10. Post implementation review

- 10.1. The Senedd Cymru (Members and Elections) Act 2024, section 19 requires the Llywydd to table a motion to review the operation and effect of the provisions amended or inserted by Parts 1 and 2 of that Act after the 2026 general election.
- 10.2. The motion that must be tabled, must propose the establishment of a committee to carry out a review of:
- the operation and effect of the provisions of the 2006 Act that are amended, or inserted into that Act, by Parts 1 and 2 of the 2024 Act (the Senedd and its Members, the number of Welsh Ministers, and the voting system in general elections etc.) and
 - the extent to which the elements of a healthy democracy are present in Wales.
- 10.3. If the Senedd agrees that motion, and such a review is undertaken, the committee may wish to consider the changes made by these Regulations as part of that.
- 10.4. However, especially given that these Regulations seek to retain the current limits, albeit adapted to the new electoral system, that committee may wish to do so as part of a broader consideration of election expenditure at Senedd elections.