

# Elections and Elected Bodies (Wales) Bill Bill Summary

November 2023



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# **Elections and Elected Bodies (Wales) Bill**

## Bill Summary

November 2023

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# 1. Introduction

**The Elections and Elected Bodies (Wales) Bill** was introduced on 2 October 2023.

The Counsel General and Minister for the Constitution (the Counsel General), Mick Antoniw MS, is the Member in Charge of the Bill.

The Bill's **Explanatory Memorandum** states that its overall purpose is to:

Provide for automatic registration of voters subject to successful piloting, and the strengthening of electoral administration by establishing an Electoral Management Board. It will also take forward reforms to the processes for conducting community and electoral reviews, abolish the Independent Remuneration Panel for Wales, conferring the majority of the functions previously undertaken by the Panel on [...]the Democracy and Boundary Commission Cymru. The Bill will enable [...]the Welsh Government to enhance the accessibility of devolved elections for disabled voters and improve candidate safety by modernising and improving the offence of undue influence.

The Counsel General published a **written statement** on 2 October.

The Bill takes forward many of the proposals included in the Welsh Government's **White Paper on Electoral Administration and Reform**. This White Paper was **published on 11 October 2022**, with a summary of consultation responses **published in March 2023**.

The Bill is currently making its way through the Senedd's legislative process. The Counsel General appeared before the **Local Government and Housing Committee** on 26 October 2023. The Committee is currently consulting on the Bill, and will be holding further evidence sessions over the coming months.

## How to use this Bill Summary

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This document isn't an exhaustive summary of every aspect of the Bill. It's designed to be used electronically and signpost to further detail.

In the summary of provisions section, the section number text (e.g., Section 1) links to the relevant section of the Bill.

## 2. The Bill at a glance

The Bill is made up of 71 sections, arranged into three parts, and has one schedule.

Part 1 – Electoral Administration and Registration

Part 2 – Elected Bodies and their Members

Part 3 – General Provision

Schedule 1 makes minor and consequential amendments relating to the co-ordination of elections.

The **Explanatory Memorandum** includes tables setting out the subordinate legislation powers in the Bill and the Senedd scrutiny procedures they will be subject to. The **Statement of Policy Intent** provides further details on the subordinate legislation that can be made under the Bill.

## 3. Summary of provisions

### Part 1 – Electoral Administration and Registration

#### Creation of an Electoral Management Board

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**Section 1** of the Bill inserts a new part into the **Local Government (Democracy) (Wales) Act 2013**. This part confers new functions on the Democracy and Boundary Commission Cymru around the general co-ordination of the administration of Welsh elections.

This includes the duty for the Commission to establish an Electoral Management Board (EMB), through which it will discharge its electoral administration functions. These functions include issuing directions and advice to Returning Officers and Electoral Registration Officers (EROs).

**Section 2** contains minor and consequential amendments relating to the new functions for the Democracy and Boundary Commission Cymru outlined in section 1.

The **Local Democracy and Boundary Commission for Wales** would be renamed the Democracy and Boundary Commission Cymru, as part of the Senedd Cymru (Members and Elections) Bill.

## Electoral registration without application

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**Section 3** of the Bill amends the **Local Government and Elections (Wales) Act 2021** and inserts a new section into the **Representation of the People Act 1983** to allow EROs to add eligible electors to the local government register in Wales without the individual needing to submit an application.

EROs will need to verify a person's identity to satisfy eligibility. They will also need to notify persons they intend to register, and provide a 45-day notice period to allow the elector to request to be registered anonymously, or ask to not be included on the register. If an elector objects to registration, the ERO must follow the existing process and invite the person to apply for registration.

**Section 4** of the Bill amends the 1983 Act to disapply current duties placed on EROs, while new duties outlined in section 3 are discharged.

## Electoral piloting powers

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**Section 5** gives the Welsh Ministers the power to make regulations to introduce electoral pilots for devolved and local government elections in Wales. This section states that pilot regulations may create, remove or modify offences, as long as the term of imprisonment does not exceed one year or the applicable limit on **summary convictions**.

**Section 6** sets out the requirements the Welsh Ministers must follow when making pilot regulations. These include setting the date by which the Electoral Commission must send its report evaluating the pilot, and the requirement to seek consent from local authorities. If consent is not granted, the Welsh Government must have regard to recommendations made by the Democracy and Boundary Commission Cymru on whether the regulations should be made without the authority's consent.

**Section 7** sets out procedures for the laying of regulations relating to pilots in the Senedd. The Explanatory Notes state that generally the negative procedure will be used. Pilots that do not have consent of the local authority, or which create or widen the scope of a criminal offence, will be subject to the affirmative procedure.

**Section 8** allows the Welsh Ministers to introduce regulations to alter the list of areas in which an electoral pilot can run. The voting systems used by the Senedd and local authorities are excluded from this provision.

**Section 9** states that the Welsh Ministers must consult on pilot proposals with the



Returning Officer in the area where the proposal would apply, as well as submitting proposals to the Democracy and Boundary Commission Cymru.

**Section 10, 11, 12 and 13** set out procedures for local authorities to propose pilots; for the Electoral Commission and local authorities to jointly propose pilots; and for EROs to propose pilots. Consultation with the Welsh Ministers is required in all cases, as is submission of a report setting out details of proposed pilots to the EMB established in section 1 of the Bill.

**Section 14** enables the Electoral Commission to recommend proposals for pilots to either a principal council or an ERO.

**Section 15** sets out what the Democracy and Boundary Commission Cymru, through the EMB, must include in its report evaluating pilot proposals. Reports on pilot proposals must be submitted to the Welsh Government within a six week period, and must contain an assessment of whether the objective of the pilot is desirable, and the likely costs involved in running the pilot.

**Section 16** requires the Democracy and Boundary Commission Cymru to establish a forum to discuss an electoral pilot, which must include the Returning Officer of the authorities affected.

**Section 17** sets out the guidance that the Democracy and Boundary Commission must publish for the person responsible for an electoral pilot.

**Section 18** sets out the requirements for evaluation of an electoral pilot once it has been completed. This evaluation will be undertaken by the Electoral Commission, and must include a recommendation on whether the pilot should be adopted on a permanent basis.

**Section 19** provides the Welsh Ministers with powers to make electoral reform regulations. This section will allow the Welsh Ministers to make permanent changes to the administration of elections “similar to” those trialled in a pilot scheme.

**Section 20** sets out an enhanced Senedd scrutiny procedure for making regulations under section 19.

**Section 21** sets out how material relating to electoral pilots should be published.

**Section 22, 23 and 24** provide for further ancillary provisions to be made in regulations, definitions of certain terms, and further minor amendments.

## Duty to report on steps taken to assist disabled voters

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**Section 25** inserts a new section 5A into the **Political Parties, Elections and Referendums Act 2000**. It places a duty on the Electoral Commission to report on the steps taken by Returning Officers to assist those with a disability in their ability to vote at Senedd and local government elections in Wales.

## Questions in local government survey

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**Section 26** amends the **Local Government (Wales) Measure 2011**, and removes the requirement for the questions and form of the local government diversity monitoring survey to be set out in regulations. This section gives the Welsh Ministers the power to set out questions in a direction to local authorities.

## Welsh elections information platform

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**Section 27** makes provision around the creation of a Welsh elections information platform. The platform is defined as an electronic facility to provide electors with up-to-date information about Senedd and local government elections in Wales. The Welsh Ministers must also lay a report, setting out how they have created and maintained the platform, before the Senedd no more than 12 months after an election.

**Section 27(4)** states that the Welsh Ministers may make provision around information that should be available on the platform, including “the publication of candidate statements and other information about candidates”.

## Promoting diversity in persons seeking elected office

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**Section 28** places a duty on the Welsh Ministers to put in place services to promote diversity in the protected characteristics and socio-economic circumstances of persons seeking election to the Senedd and to local government in Wales.

Services can include provisions of information, advice, coaching and work experience.

## Financial assistance schemes

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**Section 29** provides for the creation of financial assistance schemes for those with protected and specified characters.

**Section 29(1)** states that the Welsh Ministers may provide financial assistance

schemes to help candidates in Welsh elections that have specific characteristics or specified circumstances overcome barriers to participation.

**Section 29(2)** states that the Welsh Ministers must provide a financial assistance scheme to assist disabled candidates in Welsh elections to overcome barriers to their participation connected to their disability. This leads on from the pilot **Access to Elected Office Fund for Wales**, which was introduced in February 2021.

**Section 30** lists those who must not be appointed to operate a scheme of financial assistance. It includes Members of the Welsh or UK Governments, and Members of the Senedd.

**Section 31** provides definitions related to financial assistance schemes.

### **Campaign finance and notional expenditure**

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**Section 32** amends the **Representation of the People Act 1983** to clarify that expenditure on behalf of a candidate in Welsh local elections should only be considered incurred by the candidate where it has been directed, encouraged or authorised by them.

**Section 33** amends the **Political Parties, Elections and Referendums Act 2000** to include Senedd elections in notional expenditure rules, where notional expenditure is classified as an election expense only where it is directed or authorised by the campaign.

**Notional expenditure** is the difference in value between the commercial rate for an item or service and the price actually paid by a candidate for election.

**Section 34** amends the **Representation of the People Act 1983** and the **Political Parties, Elections and Referendums Act 2000** to clarify that the Electoral Commission can issue guidance on expenses incurred for candidates in local government elections in Wales.

**Section 35** amends the **Representation of the People Act 1983** to allow a person other than the elections agent to make payments on behalf of a campaign for local government elections in Wales.

The explanatory notes accompanying the Bill state that the equivalent change for Senedd elections will be made in the revision of the **National Assembly for Wales**

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**(Representation of the People) Order 2007**, otherwise known as the Conduct Order.

### Third party campaigners

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**Section 36** inserts a new section 89B into the **Political Parties, Elections and Referendums Act 2000**. This brings Senedd elections into the regime established by the **Elections Act 2022**, which states that no controlled expenditure above £700 may be incurred by a third party during a Welsh devolved regulated period, unless the third party is listed in **section 88(2) of the 2000 Act**.

**Welsh devolved regulated period:** the period before a Senedd election, set out in **Schedule 10 of the Political Parties, Elections and Referendums Act 2000**, where spending for political parties is subject to specific restriction.

**Section 37** allows the Welsh Ministers to amend the list of third parties who can incur controlled expenditure above £700. This will be subject to the affirmative procedure in the Senedd.

**Section 38** requires the Electoral Commission to prepare a code of practice on controlled expenditure by third parties during a Welsh devolved regulated period. As part of this, the Electoral Commission must consult with the **Llywydd's Committee** and the Senedd's **Legislation, Justice and Constitution Committee**.

**Section 39** makes minor consequential amendments to the **Political Parties, Elections and Referendums Act 2000**.

## Part 2 - Elected Bodies and their Members

### Reviews of local government electoral arrangements

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**Section 40** amends the **Local Government (Democracy) (Wales) Act 2013** (the 2013 Act) to require the Democracy and Boundary Commission Cymru to have regard to the desirability of having a ratio of local government electors to the number of members of the council to be elected that is the same, or nearly the same, in every electoral ward of the principal area, when conducting reviews of local government electoral arrangements.

**Section 41** amends the 2013 Act to change the length of the electoral review cycle from 10 to 12 years. It also contains the power for the Welsh Ministers to amend this through regulations.

## **Seaward boundary reviews**

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**Section 42** amends the **Local Government (Democracy) (Wales) Act 2013** to allow the Democracy and Boundary Commission Cymru to review the seaward boundary of more than one local government area in a single review process.

**Seaward boundaries** refer to any part of a local government boundary that lies beneath the sea, and which does not form a common boundary with another local government area.

## **Electoral review recommendations**

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**Section 43** amends the **Local Government (Democracy) (Wales) Act 2013** to clarify that the Welsh Ministers cannot implement recommendations from an electoral review (or decide to take no action) until at least six weeks has elapsed from the date they received the recommendations. It also states that they must “have regard” to any representations made during the period of six weeks.

**Section 44** amends the 2013 Act to require the Democracy and Boundary Commission Cymru to consider the process of naming electoral wards as part of the pre-review consultation procedure.

**Section 45** amends the 2013 Act to require the Democracy and Boundary Commission Cymru, or a local authority conducting a review, to make the public aware that representations from the public may be made during a public consultation on the review.

**Section 46** amends the 2013 Act by adding National Park Authorities, Port Health Authorities and the Welsh Language Commissioner to the list of bodies that must be consulted in relation to the review procedure.

**Section 47** amends the 2013 Act to extend the period which the Democracy and Boundary Commission Cymru must not publish any recommendations relating to the electoral arrangements of a local authority from 9 months before a local election to 12 months before.

**Section 48** amends the 2013 Act to require the Democracy and Boundary Commission Cymru, or a local authority, to publish a statement on the day an electoral review begins, setting out the timetable for the review.

**Section 49** amends the 2013 Act to require the Welsh Ministers to use their “best

endeavours” to make a decision on electoral review recommendations within three months of receiving them.

**Section 50** amends the 2013 Act to enable the Welsh Ministers to pause electoral reviews. The Welsh Ministers must not use this power to pause a review for a period greater than 9 months in total, whether the pause is one period of 9 months or more than one period totalling 9 months.

**Section 51** amends the 2013 Act to require a principal council to publish an annual report on work it has undertaken to review community names, community boundary changes, community council changes and electoral arrangements. The report must be submitted to the Welsh Ministers.

**Section 52** amends the **Local Government Act 1972** to require a community council to give electronic notice of any resolution it passes to become a town council to the Welsh Ministers, the principal council and the Democracy and Boundary Commission Cymru.

**Section 53 and 54** insert new sections into the 2013 Act placing various publication duties related to electoral reviews on principal councils and the Democracy and Boundary Commission Cymru.

**Section 55** makes transitional provisions relating to electoral reviews.

## **Abolition of Independent Remuneration Panel for Wales**

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**Section 56** amends the **Local Government (Wales) Measure 2011** to abolish the **Independent Remuneration Panel for Wales**. The Panel is the independent body that makes decisions about the allowances and pensions for various public bodies, including principal councils.

**Section 57** inserts a new section into the **Local Government (Democracy) (Wales) Act 2013** to give effect to the Democracy and Boundary Commission Cymru taking on the powers of the Panel around remuneration. The Bill states that this would commence from the financial year beginning 1 April 2025.

**Section 58** transfers all property, rights and liabilities vested in the Independent Remuneration Panel for Wales to the Democracy and Boundary Commission Cymru.

**Section 59 and 60** make minor amendments relating to the abolition of the Panel and the transfer of functions to the Commission.



## **Disqualification regime and removal of grace periods**

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**Section 61** amends the **Government of Wales Act 2006** to disqualify town and community councillors from being Members of the Senedd. This brings the disqualification regime for town and community councillors in line with the existing regime that disqualifies members of principal councils from becoming members of the Senedd.

**Section 61** also removes the grace periods currently provided to Members of the Senedd who are also either Members of the House of Commons or a principal council, so that they must resign from these other positions immediately without exception.

**Section 62** inserts a new sub-section into the **Local Government Act 1972** to disqualify persons who are not permitted to stand as a candidate or be a member of a district council in Northern Ireland from local government membership in Wales.

**Section 63** inserts a new paragraph into **schedule 1A of the Government of Wales Act 2006** that states persons not permitted to stand as a candidate or be a member of a district council in Northern Ireland, are disqualified from candidacy to and membership of the Senedd.

## **Undue influence**

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**Section 64** brings local government elections in Wales in line with the updated offence of undue influence included in the **Elections Act 2022**. It amends the **Representation of the People Act 1983** to include Wales in the definition of undue influence currently used for elections in England.

**The Electoral Commission defines** the offence of undue influence at an election as “when someone uses, or threatens to use, force or violence to make someone vote a certain way or not vote at all”.

## **Audit Committee of the Democracy and Boundary Commission Cymru**

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**Section 65** amends the **Local Government (Democracy) (Wales) Act 2013** to require the Democracy and Boundary Commission Cymru to establish a governance and audit committee.

**Section 66** amends the 2013 Act to give the Democracy and Boundary

Commission Cymru additional powers around charging for receipt of goods or training.

## **General provisions**

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**Section 67** states that regulations made under the Bill must not include provisions that impact on reserved authorities, under **schedule 7B of the Government of Wales Act 2006**.

**Section 68** provides definitions of certain words and terms used in the Bill.

**Section 69** gives the Welsh Ministers the power to make regulations containing supplementary, incidental, consequential, transitional or saving provisions to give full effect to any provision of the Bill.

**Section 70** sets out when provisions in the Bill will come into force.

**Section 71** provides the short title of the Bill.

## **Schedule 1**

**Schedule 1** of the Bill makes minor and consequential amendments relating to electoral arrangements, piloting provisions, campaign finance and the abolition of the Independent Remuneration Panel for Wales.