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Llywodraeth Cymru
Welsh Government

David Rees MS
Chair, Reform Bill Committee

18 September 2023

Dear David Rees MS

Senedd Cymru (Members and Elections) Bill

Please find enclosed the Statement of Policy Intent on the powers to make subordinate legislation under the Senedd Cymru (Members and Elections) Bill. This document is provided to support the Committee's scrutiny of the Bill.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee

Yours sincerely,

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Senedd Cymru (Members and Elections) Bill: Statement of Policy Intent for Subordinate Legislation

Introduction

1. This document provides an indication of the current policy intention for the subordinate legislation which the Welsh Ministers would be empowered or required to make under the provisions of the Senedd Cymru (Members and Elections) Bill (“the Bill”). In developing subordinate legislation, the Welsh Government will work closely with stakeholders in order to ensure the provisions are relevant, valid and proportionate.
2. The Bill will deliver the majority of recommendations made by the Senedd’s Special Purpose Committee on Senedd Reform. The Special Purpose Committee was established in 2021, with a remit to consider the conclusions previously reached by the Committee on Senedd Electoral Reform and make recommendations for policy instructions for a Welsh Government Bill on Senedd Reform. The Committee published its report [Reforming our Senedd: A stronger voice for the People of Wales](#) in May 2022, which included recommendations for policy instructions for legislation on Senedd Reform in time for the next Senedd election in 2026.
3. The overall purpose of the Bill is to make the Senedd a more effective legislature for, and on behalf of, the people of Wales.
4. The Bill makes provision for increasing the number of Members of the Senedd, along with associated changes resulting from this change in size. These include increasing the legislative limit on the number of Welsh Government Ministers and increasing the maximum number of Deputy Presiding Officers who may be elected from within the Senedd. Increasing the capacity of the Senedd will enable it to more effectively:
 - hold the Welsh Government to account;
 - scrutinise, oversee, and improve policy, legislation and spending; and
 - represent, respond to, and serve the people of Wales.
5. The Bill also provides for changing 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. In association it provides for repurposing and renaming the Local Democracy and Boundary Commission for Wales, including providing the new Democracy and Boundary Commission Cymru with the functions necessary to undertake ongoing reviews of Senedd constituency boundaries. It also provides instructions for the Democracy and Boundary Commission Cymru to follow in undertaking their boundary reviews. These instructions are in respect of the streamlined review to create the new Senedd constituencies by pairing the 32 new UK Parliamentary constituencies

in advance of the 2026 Senedd election (to form 16 new Senedd constituencies), a full review in advance of the subsequent election, and ongoing periodic reviews.

6. The Bill will also return the length of time between Senedd ordinary general elections to 4 years; give effect to the desire for candidates to, and Members of, the Senedd to be resident in Wales; provide a mechanism for the Senedd to consider a review of the operation and effects of the new legislative provisions following the 2026 election and any other relevant Senedd reform issue; provide a pathway for the seventh Senedd to undertake work to explore practical and legislative considerations relating to implementing job sharing for candidates standing in a Senedd election and Members job sharing particular roles.

Details of regulation-making powers in the Bill

Part 1 – The Senedd and Welsh Ministers

Details	Reason for and Policy Intent of the Power	
Reference:1	<p>This power is required in the event that a future Welsh Government determines that an increase in the legislative limit upon Welsh Ministers is necessary.</p> <p>If enacted, there is no expectation to immediately utilise this power to increase the existing maximum. It would be necessary for a future Welsh Government to justify why circumstances necessitated that the limit on Welsh Ministers needs to be increased beyond 17. This could be due to the devolution of legislative powers, or otherwise there may be specific circumstances whereby an increase is merited. Such an increase would be subject to an affirmative (majority) vote of the Senedd.</p> <p>The effect of this power is permanent. Once the power has been exercised to increase the limit within the permitted range, that will become the statutory limit for that Senedd and all future Seneddau, unless and until the power is exercised to increase the limit again, up to a maximum of 19. However, future First Ministers would continue to have discretion to appoint fewer Welsh Ministers than the maximum permitted in legislation.</p> <p>The inclusion of this power in the Bill follows a recommendation from the Senedd’s Business Committee that it would “be reasonable for the legislation to include a mechanism which would enable the Welsh Government to propose further increasing this limit to a maximum of 19 by way of secondary legislation, in order to future proof the legislation for the devolution of further powers, or other circumstances where an increase is considered to be merited.” This recommendation followed a public consultation, that included a question on whether the legislative limit on Welsh Ministers should be increased in an enlarged Senedd.</p>	
Section: 5		
<p>Description of Power:</p> <p>Provides a regulation making power for the legislative limit on Welsh Ministers to be increased in the future, to a maximum of 19 (in addition to the First Minister and Counsel General).</p>		

Part 3 – Democracy and Boundary Commission Cymru

Details	Reason for and Policy Intent of the Power
Reference: 2	<p>This power is required should the Democracy and Boundary Commission Cymru conclude at a later date (i.e. once it has received its new functions (including those expected to be transferred by the forthcoming Elections and Elected Bodies (Wales) Bill)) that a change in the quorum requirement for a meeting of its Commissioners is desirable. There will be a significant increase to the Commission’s responsibilities due to provisions included in both the Senedd Cymru (Members and Elections Bill) and the Elections and Elected Bodies (Wales) Bill, therefore this approach allows flexibility for the quorum to be changed once the Commission settles into its new operating model.</p> <p>This regulation making power therefore permits Welsh Ministers to increase or decrease the quorum number (should that be required), provided that any decrease does not change the quorum to a number lower than three (the current statutory quorum). Regulations made under this power would be subject to the affirmative procedure.</p> <p>Engagement with the current Local Democracy and Boundary Commission for Wales has taken place on this topic, and no issues were raised with the proposal.</p>
Section 15	
<p>Description of Power</p> <p>Enables Welsh Ministers to change the statutory quorum for meetings of the Democracy and Boundary Commission Cymru (from the current statutory requirement of three).</p>	

Schedule 1 – Senedd Constituencies for First General Election After 6 April 2026

Details	Reason for and Policy Intent of the Power
Reference: 9	<p>This power is required to ensure that the determinations of the Democracy and Boundary Commission Cymru, included in its final report for the 2026 review, are implemented in law. The regulations will therefore identify and set out the 16 constituencies for which Members of the Senedd will be elected at the first general election held after 6 April 2026 (this date takes into account the possibility of a Senedd general election taking place up to one calendar month earlier than the scheduled election on 7 May 2026).</p> <p>The Welsh Ministers must make regulations implementing the Democracy and Boundary Commission Cymru’s determinations (subject to any modifications required¹) as soon as is reasonably practicable, and within 14 weeks of the laying of the final report before the Senedd, unless there are exceptional circumstances.</p> <p>Where there are exceptional circumstances, and Welsh Ministers are unable to make and lay the regulations within 14 weeks of the laying the final report, Welsh Ministers must lay a statement setting out the exceptional circumstances. Welsh Ministers must continue to lay such statements every 4 weeks until the regulations are made and laid before the Senedd.</p>
Schedule 1 Paragraph 9 (1)	
<p>Description of Power</p> <p>A power for Welsh Ministers to implement in law the determinations made by the Democracy and Boundary Commission Cymru in its final report on the 2026 review (subject to any modifications required).</p>	

¹ The Bill provides for modifications to be made to the final report to correct any errors identified, and sets out the processes that must be followed in that event.

Schedule 2 – New Part 3A of the 2013 Act

Details	Reason for and Policy Intent of the Power
<p>Reference: 10</p> <p>Schedule 2 (proposed new section 49J of the Democracy and Boundary Commission Cymru etc. Act 2013)</p>	<p>This power is required to ensure that if the Democracy and Boundary Commission Cymru determines in its final reports of boundary reviews (completed after the 2026 Senedd election) that changes to Senedd constituency boundaries are required, those determinations are implemented in law. The regulations would therefore identify and set out the 16 Senedd constituencies for which members of the Senedd will be elected at the next ordinary general election of the Senedd.</p>
<p>Description of Power</p> <p>A power for Welsh Ministers to implement in law the determinations made by the Democracy and Boundary Commission Cymru in its final reports (subject to any modifications required).</p>	<p>Where the Democracy and Boundary Commission Cymru’s final reports determine that changes to existing Senedd constituencies are required, Welsh Ministers must make regulations giving effect to those determinations (subject to any modifications required²) as soon as is reasonably practicable after the laying of a final report, and in any event within six months, unless there are exceptional circumstances.</p> <p>Where there are exceptional circumstances, and Welsh Ministers are unable to make and lay the regulations within six months of the laying the final report, Welsh Ministers must lay a statement setting out the exceptional circumstances. Welsh Ministers must continue to lay such statements every 4 weeks until the regulations are made and laid before the Senedd.</p>

² The Bill provides for modifications to be made to a final report to correct any errors identified, and sets out the processes that must be followed in that event.