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Llywodraeth Cymru
Welsh Government

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The Reform Bill Committee

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Senedd Cymru (Electoral Candidate Lists) Bill

Dear David

Following the introduction of the Senedd Cymru (Electoral Candidate Lists) Bill into the Senedd earlier today, please find attached a copy of the statement of policy intent. The document is provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee in due course.

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

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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 (Electoral Candidate Lists) 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 (Electoral Candidate Lists) Bill (“the Bill”). In developing subordinate legislation, the Welsh Government will work closely with key stakeholders and delivery partners in order to ensure the provisions are relevant, valid and proportionate. As a result, some of the details may be subject to change.
2. This Statement has been prepared in order to assist the Senedd during the scrutiny of the Bill. It should be read in conjunction with the Bill and the Explanatory Memorandum and Explanatory Notes which accompany it.
3. The Bill will deliver the recommendations made by the Special Purpose Committee (SPC) on Senedd Reform in relation to the introduction of a gender quota for Senedd elections. The SPC was established in 2021, with a remit to consider the conclusions previously reached by the Senedd 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 to be implemented in time for the next Senedd election in 2026.
4. The purpose of the Bill (which is a Bill within a package of reforms to deliver the recommendations of the SPC) is to make Senedd Cymru (“the Senedd”) a more effective legislature for, and on behalf of, the people of Wales. To achieve this, the Bill aims to ensure the Senedd is broadly representative of the gender make-up of the population, in particular with regard to the representation of women.
5. The substance of the Bill is delivered in section 1. It inserts four new sections into the Government of Wales Act 2006 (“GoWA”) after section 7. The Senedd Cymru (Members and Elections) Bill currently before the Senedd substitutes a new section 7 and references in the Bill and this statement to section 7 of GoWA are to section 7 as so substituted.

6. Of particular relevance to the Bill is the existing section 13 of GoWA. It provides the Welsh Ministers with a broad power to make subordinate legislation about the conduct of Senedd elections. This power has previously been exercised to make the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236) (often referred to as “the Conduct Order”). As explained below, under the Bill further provision will be made relating to new sections 7A and 7B of GoWA using the power in section 13 of that Act.
7. The Bill contains requirements (in sections 7A and 7B) regarding the proportion and placement of women on lists of candidates submitted by registered political parties for Senedd elections. In summary, the Bill requires that such lists comply with the following rules:
 - a. At least half of candidates on a list must be women (“vertical” or constituency level rule)
 - b. On a list, any candidate who is not a woman must be followed by a candidate who is a woman unless they are the last candidate on the list (“vertical” or constituency level rule)
 - c. The first or only candidate on at least half of the lists submitted by a registered political party must be a woman (“horizontal” or national level rule).

The vertical rules do not apply to a list which only has one candidate on it. The horizontal rule does not apply if the party only submits one list.

8. The following table sets out some examples of compliant and non-compliant lists:

List position	Examples of vertically compliant lists		
	W – candidate who is a woman NW – candidate who is not a woman		
1	W	NW	W
2	NW	W	NW
3	W	W	W
4	NW	NW	NW
5	W	W	W
6	NW	W	
7	W	NW	
8	NW	W	
	Examples of vertically non-compliant lists		
1	NW	W	W
2	W	NW	NW
3	NW	NW	W
4	W	W	NW
5	NW	NW	NW
6		W	W
7		NW	NW
8		W	W
	<i>Less than 50% of candidates are women</i>	<i>The candidate in position 2 needs to be followed by a woman in position 3</i>	<i>The candidate in position 4 needs to be followed by a woman in position 5</i>
To be horizontally compliant , at least half of a party's lists must have a woman in position 1. If a party is standing in 13 constituencies, this means that at least 7 of them must have a woman in the first or only position on the list. If 6 or fewer of their lists has a woman in first position, they would be horizontally non-compliant .			

9. The Bill also provides for:

- the creation of a National Nominations Compliance Officer (“NNCO”) and for the enforcement of the horizontal rule, including what is to happen if a party’s lists do not comply with it. These matters are to be provided for in an order under section 13 of GoWA (section 7C);
- particular provision relating to sections 7A and 7B that may be made in an order under section 13 of GoWA (section 7D(1));
- party list candidates to state whether they are a woman, or not, during the nominations process. This requirement must be provided for in an order under section 13 of GoWA (section 7D(2));
- a mechanism with a view to instigating a review of the operation and effect of the quota rules by the Senedd shortly after the first election at which the provisions apply (section 2);
- a regulation power to make consequential, incidental or supplementary, transitional, transitory or saving provision (section 3);
- an order power to bring the main provisions of the Bill into force (section 4).

10. The Bill reflects the current balance between provisions in GoWA and those in the Order under section 13 of GoWA. GoWA will continue to set out the requirements regarding political parties’ candidate lists (section 7, together with sections 7A and 7B to be inserted by the Bill) and the details of the process for making nominations, showing compliance with the rules and enforcing them will continue to be set out in a section 13 order. Currently the detail is in Schedule 5 to the current Conduct Order, but changes will be required in light of this and other Bills affecting the electoral system (if enacted). The Order is due to be revoked and remade for the 2026 election.

11. The Welsh Ministers have considered the use of powers in the Bill as set out below and are satisfied that they are necessary and justified.

Details of regulation-making powers in the Bill

Section 1 – Proportion and placement of women on lists of candidates to be Members of the Senedd

Details	Reason for and Policy Intent of the Power
<p>Section 1, sections 7C-D to be inserted into GoWA together with existing section 13 of GoWA.</p>	<p>The Order to be made under Section 13 to implement the Bill will provide for a person to be designated by the Welsh Ministers as the NNCO (section 7C(1)). The intention is that this person will be designated from the pool of Local Authority Returning Officers who will not be serving as Constituency Returning Officers (“CROs”) in Senedd elections. The order will need to confer functions on the NNCO (described in more detail below) related to ensuring compliance with the horizontal rule (section 7C(2)). The role of an NNCO will be similar to that of a CRO, in that the NNCO will be checking an aspect of whether nominations, on their face, comply with the rules.</p>
<p>Description of Power:</p> <p>Section 13 of GoWA provides the Welsh Ministers with a broad power to make subordinate legislation about the conduct of elections. Further provision will be made relating to new sections 7A and 7B of GoWA using the power in section 13 of that Act.</p> <p>The new sections 7C and 7D (which section 1 inserts into GoWA) make particular provision about what may or must be provided for in an order under section 13. This particular provision relates to the rules set</p>	<p>To allow for adequate time to complete the necessary compliance checks, the order will also make provision for changes to the electoral timetable. The order will create additional time between the close of nominations and the publication of the statement of persons nominated to enable information to be shared between the CROs and the NNCO for the purpose of checking compliance with the horizontal rule and to resolve any non-compliance without negatively impacting on the timetable for the election.</p> <p>It is envisaged that a period of up to 3 days will be appropriate for the additional steps that will be required. The intention is that the notice of election would be published earlier than is currently the case in order to allow for this additional time within the process, without shortening the period during which nomination papers can be submitted, nor the period between the publication of the statement of persons nominated and the day of the poll.</p> <p>The section 13 order must include a requirement for candidates standing for a registered political party to state either that they are a woman or not a woman (section 7D(2)). This information is required for CROs and the NNCO to consider whether party lists are compliant with the vertical and horizontal rules.</p>

Details	Reason for and Policy Intent of the Power
<p>out in the new sections 7A and 7B:</p> <ul style="list-style-type: none"> • section 7C – the NNCO and enforcement of section 7B (the horizontal rule). • section 7D – particular provision relating to sections 7A and 7B that may or must be made in a section 13 order. 	<p>It is intended that this gender statement will form part of the suite of nomination papers which candidates are required to submit in order to stand for election, and that it will be signed and dated by the candidate. Where a candidate fails to provide a statement, their nomination will be invalid.</p> <p>Upon a party nomination paper being submitted, the CRO (as is currently the case) would consider whether the party's nomination and those of the candidates on the party's list are validly made. This will include whether the candidates have stated whether they are a woman or not and whether the list of candidates (that are otherwise validly nominated) complies with the vertical rules. The intention is that the order will add an additional ground for the CRO holding a party nomination paper invalid, namely that the party list does not comply with the vertical rules. It is anticipated that there will be an opportunity for parties to have their lists informally checked by CROs for compliance during the nominations period.</p> <p>The order may set out arrangements in respect of inspection of candidate statements (section 7D(1)(b)). It is intended that any rights to inspect such gender statements would, like the current arrangements for inspecting nomination papers and home address forms, be limited to specified persons and to a specified time period.</p> <p>It is intended that checks for compliance with the horizontal rule will take place after both the deadline for the close of nominations and the CRO completing their checks. The deadline for nominations is currently the same as that for withdrawals of candidates, so once it has passed and the CRO has completed their checks, the list will be settled subject to all the party's lists complying with the horizontal rule. CROs will also have a role in checking compliance with the horizontal rule (section 7C(3)(b)). They will be required to provide the NNCO with information about the gender of candidates in the first or only position on a list i.e. whether that candidate is a woman or not. They may also need to provide information on which lists (if any) contain only one candidate. This information will be used by the NNCO to determine whether a registered political party is compliant with the horizontal rule (including</p>

Details	Reason for and Policy Intent of the Power
	<p>whether a party is subject to it at all i.e. if they have nominated a candidate in more than one constituency) and if it is not compliant, to inform the action to be taken.</p> <p>If a party is compliant with the horizontal rule or is not subject to it, the NNCO will need to inform the CRO, so that the CRO can proceed to include the party and its candidates in the statement of persons nominated. The order may set out details of the communications to take place between the CRO and the NNCO.</p> <p>The order will also make provision for what is to happen in the event of a party's lists not being compliant with the horizontal rule (section 7C(3) and (4)). The policy intention is that the order of candidates on one or more of the party's lists would be rearranged to make the party compliant. This rearrangement will involve the person at the top of a list who is not a woman, being swapped with the woman in the second position on that list and potentially also the person in third position swapping with the person in fourth position and so on down the list, as necessary for the list to comply with the vertical rules.</p> <p>The policy intention is that parties will have an opportunity to decide which list or lists of those they submitted are to change, failing which the NNCO would make that selection at random (which may be required to be done through the drawing of lots). Ordinarily, the action taken to address non-compliance will not involve any party or candidate ceasing to be nominated, rather just changing the order in which candidates appear on a list. The exception to this would be if the party has lists of one. It may be necessary for a candidate (who is not a woman) on a list of one to cease to stand nominated in order to make the party's lists compliant overall, but the policy intention is that this would only be required as a last resort (i.e. the policy intention is that the order will provide that the NNCO, in selecting which lists are to be changed, must first exhaust lists of multiple candidates which have a candidate who is not a woman in first position, before selecting any lists of one).</p> <p>The order will also set out the functions of CROs in dealing with issues of non-compliance (they will need to rearrange the order of candidates on a list as they will have the statements</p>

Details	Reason for and Policy Intent of the Power
	<p>of all the candidates on the list and the policy intention is that the order set out the rules for how they do so) and the details of information to be given by CROs to the NNCO and vice versa and to parties.</p> <p>The policy intention is to include provision in the section 13 order to address the situation when a woman candidate dies during the nominations process, where this affects compliance with the rules. This may involve the list being treated as compliant if, but for the death, it would have been compliant (i.e. for CROs and the NNCO to consider compliance as if the death had not occurred). Other situations involving the removal of a candidate from a list may also be addressed. Section 7D(1)(a) covers this.</p>

Section 3 – Power to make consequential, transitional etc. provision

Details	Reason for and Policy Intent of the Power
Section: 3	<p>The Bill does not contain any consequential amendments. Some (or other provision within this power) may be appropriate for one of the reasons set out in the power.</p>
<p>Description of Power:</p> <p>Provides the Welsh ministers with a regulation power to make consequential, incidental, supplementary, transitional, transitory or saving provision if the Welsh Ministers consider it</p>	<p>The intention would be that any such provision would align appropriately with the Bill's provisions.</p>

Details	Reason for and Policy Intent of the Power
<p>appropriate for the purposes of, in consequence of, or for giving full effect to any provision of the Act (i.e. the Bill once enacted). The regulations may amend, repeal, revoke or modify enactments.</p>	

Section 4 – Coming into force

Details	Reason for and Policy Intent of the Power
<p>Section: 4</p>	<p>Sections 3, 4 and 5 of the Bill will come into force on the day after the day on which it receives Royal Assent.</p>
<p>Description of Power:</p> <p>Provides the Welsh Ministers with the power to make an order appointing the day on which sections 1 and 2 come into force. Such an order may make transitional, transitory or saving provision and appoint different days for different purposes.</p>	<p>Sections 1 and 2 of the Bill will come into force on the day or days appointed by Welsh Ministers by way of an order. The current timetable for delivery of legislation to apply for the 2026 Senedd election provides very little scope for delay. In the event of a delay to this Bill that goes beyond timing provided for in the timetable, having this power allows Ministers to provide for the Bill's main provisions to come into force later.</p>