

# **SL(6)615 – Senedd Cymru (Representation of the People) Order 2025**

## **Background and Purpose**

The Senedd Cymru (Representation of the People) Order 2025 (“the Conduct Order”) makes provision for the conduct of elections. The Conduct Order provides for the manner in which elections and election campaigns are conducted, and for legal challenges to an election.

The Conduct Order remakes, 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”), which has been amended a number of times previously. 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.

The Explanatory Memorandum to the Conduct Order states that it is bilingual for the first time and follows principles set out in the Legislation (Wales) Act 2019 relating to using modern and clear language which is accessible to the reader.

## **Procedure**

Draft affirmative.

The Welsh Ministers have laid a draft of the Order before the Senedd. The Welsh Ministers cannot make the Order unless the Senedd approves the draft Order.

## **Technical Scrutiny**

The following 36 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Article 6(5)(c) refers to a “service declaration” and a “declaration of local connection”. These terms are not defined in the article 2 of the Order and when they are used elsewhere in the Order, they are used with reference to where their respective meanings can be found in other legislation. The Welsh Government is asked to explain why it did not define these terms in article 2, or provide further information in article 6(5)(c) to assist the reader in understanding these terms.

### **2. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**



In article 16(6), there is a difference between the English and Welsh text. In the English text it notes "Schedule 4 makes further provision..." but the meaning given by the Welsh text is "Schedule 4 makes provision...". Elsewhere the meaning of the same phrase has been expressed correctly in the Welsh text in similar provisions such as articles 14(2) and (3), and 15(4), 43(4), 65(5) and 71(8).

### **3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Articles 26(3) and 119(1) refers to a "scrutiny". This word is not given any specific meaning in the Order and therefore it is not clear to the reader what a scrutiny is.

### **4. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Articles 26(3) and 26(4) refers to "any penalty for voting". This term is not given any specific meaning in the Order and therefore it is not clear to the reader what any penalty for voting refers to.

### **5. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

In article 35(1)(d), reference is made to "sections 6A to 6D of the 2000 Act". However, the term "the 2000 Act" has not been defined in the Order. It appears that the reference should be to "the 2000 Political Parties Act" which is defined in article 2(1) of the Order, if the provision is referring to sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000.

### **6. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Articles 47(9) cross refers to rule 70(1) of Schedule 5 with the reference "(destruction of documents)". Rule 70 is headed "Retention and destruction of documents forwarded to relevant registration officer" and rule 70(1) only deals with retention of documents, so referring to "destruction of documents" in the context of rule 70(1) is inaccurate and may be confusing for the reader.

### **7. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Article 54(1) requires an election agent to deliver a "true return" to the returning officer. This term is not defined in the order and the form of a true return is not clear as no form is included for this purpose in Schedule 10 to the Order. Article 54(8) provides the Electoral Commission with the power to prescribe a form of return for this purpose, but that is a discretionary power whereas the requirement to deliver a true return in article 54(1) is mandatory. The Welsh Government is asked to provide further information as to the form of a "true return" should the Electoral Commission not exercise its power under article 54(8).



## **8. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In article 56(3), there is a difference between the English and Welsh text. In the English text, it notes “the registered political party on whose party list the candidate was included” but the meaning given by the Welsh text is “the registered political party on whose list the candidate was included”. In this regard, it is significant because “party list” is a term that is defined by article 2(1) for this Order. In addition, the Welsh Government may also wish to consider that there appears to be a varying throughout the English text of the Order between stating “on whose party list” or “on whose list” in similar phrases, examples include articles 71(3) and 119(2)(b) which use “on whose list” and articles 45(1) and 118(2) which state “on whose party list”.

## **9. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Article 67(4) refers to the sending of communications by candidates, and states that sending such communications is, in part, subject to the condition in article 67(2). However, article 67(2) states that the election communication “may” be a postal communication that contains only matter relating to the election and weighs less than 60 grammes. This appears to be an optional provision rather than a condition – if it was a condition, it would be expected that the word “must” would have been used instead of “may”. The Welsh Government is therefore asked to explain how these two provisions interact.

## **10. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Article 71(4)(a) refers to community, foundation or voluntary aided schools. These terms are not defined in the Order. Other legislation defines these terms with reference to the School Standards and Framework Act 1998 (see, for example, section 51(2) of the recently passed Welsh Language and Education (Wales) Bill). The Welsh Government is asked to explain why these terms are not defined in the Order.

## **11. Standing Order 21.2(viii) – that it uses gender specific language**

Article 72(3) refers to the “chairman” of a meeting. The Welsh Government is asked to explain why the word “chair” or “chairperson” was not used in this instance.

## **12. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Article 73(1) sets out a list of persons who are classed as officials who must not act for candidates. Subparagraph (d) refers to “any partner or clerk of any such person”. It is not clear what the word “partner” here refers to, whether it is a business partner, partner in a personal capacity, civil partner or otherwise. The Welsh Government is asked to clarify what is meant by “partner” in this context.



### **13. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Article 93(4) states that a copy of the evidence transcribed in a trial of a Senedd election petition “must accompany the certificate given by the election court to inform the Senedd”. It is not clear what certificate is being referred to in this context – Part 4 of the Order refers to various instances where a certificate may be required. It may be that this is linked to the obligation on the election court to certify in writing its determination of the petition to the Presiding Officer of the Senedd under article 101(3) but this is not clear, therefore the Welsh Government is asked to clarify the position.

### **14. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Article 104(1) refers to a Senedd election petition being withdrawn with the leave of the election court or “High Court on special application”. There is no further information in the Order as to what a “special application” is. It may be that this should refer to a special case that is brought under article 103 of the Order but clarification would be welcomed from the Welsh Government on this point.

### **15. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Paragraph 7(2) of Schedule 1 to the Order lists persons who can attest and sign an application for a proxy vote on grounds of severe sight-impairment or other disability. The majority of professions listed in sub-paragraph (2) are defined by reference to a specific legislative provision or register. However sub-paragraph (2)(h) refers to “a Christian Science practitioner” with no further definition or reference to any register of such practitioners. The Welsh Government is asked to explain:

- the basis for including a seemingly unregulated profession in this list, and
- whether the inclusion of an unregulated profession creates any risks in relation to the proxy vote system.

### **16. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In paragraph 16(1)(a) of Schedule 2, the English text refers to an “application to remove a person from record of absent voters”, while the meaning of the Welsh equivalent is an “application to remove a person’s **name** from record of absent voters”.

### **17. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In paragraph 18(2)(b) of Schedule 2, the English text provides that the returning officer “must mark the postal ballot box with the words “blwch pleidleisio drwy’r post” or the words



“postal ballot box” or both”. Words meaning “or both” are missing from the Welsh equivalent text.

### **18. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In paragraph 23(9)(b) of Schedule 2, the English text refers to any other ballot paper “with the postal voting statement attached”. The meaning of the equivalent Welsh text is “with the postal voting statement attached to it”, but the phrase “to it” is expressed with the feminine form of the preposition “wrthi”. As “papur pleidleisio” is a masculine noun, the Welsh text does not make sense.

### **19. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In paragraph 23(9)(b) of Schedule 2, the meaning of the provision is unclear because of a difference in syntax between the English and Welsh texts. The English text suggests that it is the postal voting statement that must be marked with the words “gwrthodwyd dros dro”, “provisionally rejected” or both, while the Welsh text provides that it is the ballot paper that must be so marked. The Welsh Government is asked to clarify the meaning of the provision.

### **20. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Paragraph 23(9)(c) of Schedule 2 in the English text provides that in certain circumstances the returning officer must place in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked “provisionally rejected”. The equivalent Welsh text refers to any valid postal voting statement marked “gwrthodwyd dros dro”. Equivalent provisions elsewhere in Schedule 2 refer to postal voting statements marked in English or Welsh **or both** in both language texts. The Welsh Government is asked to explain this inconsistency.

### **21. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

In paragraph 11 of Schedule 3, the English text modifies only the English text of the question in Table 1 in rule 44(4), while the Welsh text modifies only the Welsh text of that question. However, as the Table in both language versions includes the question in Welsh and in English, it appears that the modification should be made bilingually in both the Welsh and English texts.

The same issue appears in paragraph 11 of Schedule 4.

### **22. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**



In paragraph 23(b) of Schedule 3 the English text of modified paragraph (2)(a) refers to “the office of councillor for a county or county borough” while the Welsh equivalent text refers to “the office of councillor for a county or county borough **council**”.

**23. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Rule 13(7) of Schedule 5 to the Order refers to persons mentioned in paragraph (1)(a) to (d) of rule 13. However, there are no sub-paragraphs in paragraph (1). It appears that the correct reference should be to paragraph (2)(a) to (d) but the Welsh Government is asked to confirm this.

**24. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation**

Rule 55(1) of Schedule 5 to the Order refers to the steps that must be taken by the presiding officer as soon as practicable “after every voter has cast their vote”. Article 2 defines “voter”, in part, as “a person voting at a Senedd election”. This is a wide definition which appears to mean that the presiding officer must take steps under rule 55 after every person voting in the election has voted, it is not limited to that particular polling station. The Welsh Government is asked to explain how the presiding officer of each polling station is to know or be made aware that every person voting in the election has cast their vote.

**25. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Rule 66(3)(d) and 67(2)(h) of Schedule 5 to the Order refer to “registration records”. This term is defined for the purpose of other rules, but not for these two rules, therefore it is not clear when looking at these rules what the term means.

**26. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 5, in rule 68(2)(d) and (3)(c), there is a difference between the English and Welsh text. In the English text, it notes “an order for the inspection or production of the whole or part of its contents”. In the Welsh text, the “or production” is expressed by stating “neu i’w ddangos” where “i’w” is a masculine pronoun causing a soft mutation of “dangos” so that it must be referring to an earlier masculine singular noun. However, in the Welsh text “rhan” (“part”) in the phrase “part of its contents” is a feminine noun and will not be included within the phrase “i’w ddangos” which can only apply to a masculine noun. Therefore, the Welsh text does not succeed in fully conveying the meaning of the sentence as an election court may make an order for the production of either the whole or part of the contents of the sealed packets.

**27. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**



In Schedule 5, in rule 75(5), there is a difference between the English and Welsh text. In the English text, it refers to a period of time which is “21 days after the day on which...” but the meaning given by the Welsh text is “21 days after the date on which the...”. Elsewhere a more literal word “diwrnod” (“day”) has been used when describing periods of time in the Welsh text of the Order.

### **28. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 5, in rule 75(11), in the opening words before sub-paragraph (a), there is a difference between the English and Welsh text. In the English text, it refers to “under paragraph (4)(b)(i)” but the meaning given by the Welsh text is “under (4)(b)(i)”.

### **29. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.**

In Schedule 9, in paragraph 2(1), the interpretation of rule 2(2) of the Election Petition Rules 1960 is modified by inserting additional definitions. However, in the Welsh text, the new definitions have all been inserted in Welsh despite the existing Election Petition Rules 1960 being English only. Therefore, it seems these new definitions should also have been inserted in English by the Welsh text of paragraph 2(1) in Schedule 9 to the Order under the usual convention (as is the case with further modifications to the 1960 Rules in Schedule 9 – see for example paragraph 3 of Schedule 9).

Subject to the Welsh Government’s response to this point, we note the following two connected points relating to paragraph 2(1) of Schedule 9:

- in the definition of “*the Clerk of the Senedd*” that is inserted as a modification to rule 2(2) of the 1960 Rules, there is a difference between the English and Welsh text as the meaning given by the Welsh text is “the Clerk”.
  - The English definition is used in the modification made by paragraph 4(b) of Schedule 9 and in the Petition Template inserted in the 1960 Rules as a modification by paragraph 7 of that Schedule. However, “*Clerc y Senedd*” rather than the defined term “*y Clerc*” is used in the Welsh text of the Petition Template inserted by paragraph 7 of Schedule 9.
- in the definition of “*Senedd Cymru election*” that is inserted as a modification to rule 2(2) of the 1960 Rules, there is a difference between the English and Welsh text as the meaning given by the Welsh text is “*Senedd election*”.
  - The English definition is used in the Petition Template inserted in the 1960 Rules as a modification by paragraph 7 of Schedule 9. However, “*etholiad Senedd Cymru*” rather than the defined term “*etholiad i’r Senedd*” is used in the Welsh text of the Petition Template inserted by paragraph 7.



### **30. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 9, in paragraph 7, in the heading of the new Petition Template, there is a difference between the English and Welsh text. In the English text, it notes “Senedd **Cymru** Election Petition Template” but the meaning given by the Welsh text is “Senedd Election Petition Template”. In this regard, the Welsh text has used the new definition for “Senedd election petition” inserted as a modification in rule 2(2) of the 1960 Rules by paragraph 2(1) of Schedule 9. However, the English text has not used the definition “Senedd election petition” that was inserted in rule 2(2) of the 1960 Rules.

### **31. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 10, in Form 20, there is a difference between the heading of the English language Forms found in the English and Welsh versions of the Order. In the English version, the heading of the English language Form is “Form of declaration to be made by the companion of a voter **with severe sight impairment or other disability or inability to read**”. But the heading of the English language Form in the Welsh version of the Order is “Form of declaration to be made by the companion of a voter **with disabilities**”. This was the title of the form in the consultation version of the Order. The title has been amended and updated in the English form in the English text of the Order, but not in the English form contained in the Welsh text.

### **32. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 10, in Form 23, there is a difference between the English and Welsh text. In the English text in the words in italics after “Note” it states, “in accordance **with rule** 75 of Schedule 5”. But in the Welsh text of the Form, the words “with rule” are missing in the reference so that the meaning given is “in accordance 75 of Schedule 5”.

### **33. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 11, in paragraph 1(3), there is a difference between the English and Welsh text. In the English text, in the words in parentheses, it notes “(amendments to the National Assembly for Wales (Representation of the People) Order **2007**)”. But in the Welsh text the year “2007” is missing from the title of the Order and also the closing brackets at the end.

### **34. Standing Order 21.2(vii) – that there appears to be inconsistencies between the meaning of its English and Welsh texts**

In Schedule 11, in paragraph 1(4)(b), there is a difference between the English and Welsh text. In the English text, in the new definition of “2025 Order” it notes the title of the Order as “the Senedd Cymru (Representation of the People) Order **2025**”. But in the Welsh text, the



year in the title of the Order is "2005" so that the meaning given "is the Senedd Cymru (Representation of the People) Order **2005**".

**35. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation.**

We would be grateful for an explanation to the following two points related to paragraph 5 of Schedule 11 to the Order:

- in paragraph 5(2)(b)(ii), the term "an Assembly election" is textually amended so that it notes "a Senedd election" in regulation 2(3) of the Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012. In addition, the same term has been amended in regulation 2A of the 2012 Regulations by paragraph 5(3)(a) and (b) of Schedule 11. However, the term "Assembly election" is defined for regulation 2 by regulation 2(5) of the 2012 Regulations. Therefore, could the Welsh Government explain why they have not textually amended the definition of "Assembly election" in regulation 2(5) of the 2012 Regulations? In addition, should the other relevant defined terms in regulation 2(5) such as "Assembly", "Assembly constituency" and "Assembly electoral region" also have been textually amended to state "Senedd" in regulation 2(5) of the 2012 Regulations?
- in paragraph 5(3), amendments are made to regulation 2A of the 2012 Regulations. However, there is a potential historical error in the previous amendments that were made by SI 2016/300 which inserted regulation 2(3) to (5) and regulation 2A in the 2012 Regulations. As a result of those amendments, regulation 2(5) of the 2012 Regulations only defined "Assembly", "Assembly election" and "Assembly constituency" for regulation 2 of those Regulations. Therefore, those terms have not been defined for use in regulation 2A of the 2012 Regulations. Following the amendments made by paragraph 5(3) of Schedule 11 to this Order, it appears the problem will remain that the terms found in regulation 2(5) of the 2012 Regulations will not have been defined with a meaning for regulation 2A of those Regulations.

**36. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements**

Schedule 12(11) purports to revoke "*The Senedd Cymru (Returning Officers' Accounts) Regulations **2021***". This seems to be an error as an instrument with this title does not appear to exist. The SI number for this instrument has not been provided in a footnote.

We note that the consultation version of this Order initially purported to revoke the *National Assembly for Wales (Returning Officers' Accounts) Regulations 2011* (SI. 2010/676) under Schedule 12(1). These Regulations are still in force, but their revocation has been omitted from this Order. The reason for this is unclear. It is also unclear whether the erroneous reference to the 2021 regulations in Schedule 12 is connected to the deletion of the 2011 regulations.



## Merits Scrutiny

The following six points are identified for reporting under Standing Order 21.3 in respect of this instrument.

**37. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment**

Article 23 of the Order states that a returning officer is entitled to recover their charges in respect of their expenses relating to a Senedd selection. They can also recover charges on behalf of electoral administrators who are listed in article 23(3). Article 23(7) states that any sums recoverable are to be charged on, and paid out of, the Welsh Consolidated Fund. Article 23(8) further states that where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under article 23 as part of a returning officer's charges at a Senedd election, then a sum equal to the increase must be charged on, and paid out of, the Welsh Consolidated Fund to the authority.

**38. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment**

Article 67 of the Order requires the Welsh Ministers to remunerate the service provider that provides a postal service free of charge for election communications, and the sums payable are to be charged on the Welsh Consolidated Fund.

**39. Standing Order 21.3(i) – that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment**

Article 92 of the Order states that the expenses incurred by judges in relation to a Senedd election petition must be paid out of the Welsh Consolidated Fund.

**40. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

Various provisions of the Order permit the Electoral Commission to make regulations. The Order makes no provision for such regulations to be laid before the Senedd, nor for any notification of such regulations to the Senedd or the Welsh Ministers. It is noted that under paragraph 21 of Schedule 1 to the Political Parties, Elections and Referendums Act 2000 a copy of the regulations would have to be given to the Secretary of State, and under paragraph 22(4)



would also have to be made available to the public, but the Welsh Government is asked to explain why regulations made by the Electoral Commission in relation to Wales do not have to be laid before the Senedd or a copy provided to the Senedd or the Welsh Ministers.

**41. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

Paragraph 4(2) of Schedule 6 to the Order states that any donation of less than £500 is to be disregarded as a donation which is subject to the rules in Schedule 6. It is noted that the consultation version of this Order set the figure of £50 for this purpose. The Welsh Government is asked to explain what gave rise to this significant increase.

**42. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

The consultation version of this Order contained a detailed form (Form 29) in Schedule 10 for the return of individual candidates' election expenses. This form has been omitted from the Order. The omitted form was materially similar to Form CW in the 2007 Conduct Order. The requirement to deliver an election expenses return remains in Article 54. The financial information required is comprehensive, detailed and relatively complex.

Under this Order, the Electoral Commission has a power (but not a duty) to prescribe a form of return which may be used for the purposes of making the necessary returns required by individual candidates.

The Welsh Government is asked to explain the rationale for removing Form 29 and conferring a power on the Electoral Commission to prescribe a form, and whether the Electoral Commission intends to prescribe such a form in time for the 2026 Senedd elections. In the absence of a prescribed form, the Welsh Government is asked whether it's satisfied that an individual candidate could confidently submit the totality of detailed information required by Article 54.

## Welsh Government response

A Welsh Government response is required to all reporting points save for merit reporting points 37 to 39 inclusive.

## Committee Consideration

The Committee considered the instrument at its meeting on 2 June 2025 and reports to the Senedd in line with the reporting points above.

