

Government Response: The Senedd Cymru (Letters Patent and Proclamations) Order 2021

We note that the report indicates that the Order was made by the Welsh Ministers before it was laid before the Senedd.

The Order was made by Her Majesty in Privy Council, in exercise of the power under section 116(3) the Government of Wales Act 2006. Pursuant to section 116(4) the Order is subject to annulment of a resolution of the Senedd.

Merit Scrutiny Points under Standing Order 21.3(ii)

1. The wording “subject only to such variations as are necessitated by the circumstances” as set in article 2 of the Order, has been included to allow, where circumstances dictate, for there to be a variation of the form of words in the Letters Patent and proclamations as set out in the Schedules to the Order. The wording has been included to accommodate necessary interim changes to the form of wordings in the Letters Patent and Proclamations, such changes can be adopted until such time as the Order can be amended.

The identical wording was adopted in article 2 of the National Assembly for Wales (Letters Patent) Order 2011 and the wording was relied upon to substitute the “National Assembly for Wales” with “Senedd Cymru” in all Letters Patent following the Senedd’s change of name in the Senedd and Elections (Wales) Act 2000.

We do not consider that section 4(2)(a) specifically provides that a royal proclamation will dissolve the Senedd. Section 4(2) provides that Her Majesty may by proclamation dissolve the Senedd, but does not provide that Her Majesty must dissolve the Senedd and we are satisfied therefore that the Llywydd may exercise her emergency power under section 4(2) of GoWA where the Senedd has already been dissolved and at very short notice.

In the context of the wording of a royal proclamation under section 4(2)(a), we do consider that the wording in article 2 would permit such a variation of the proclamation wording, as would be necessary if the Senedd had already been dissolved before the Llywydd were to exercise her power under section 4(2) of the 2006 Act. In this regard, we would foresee the wording at point 1 of the Order “Senedd Cymru is hereby dissolved” would be omitted from a proclamation made under section 4(2) where the Senedd had already been dissolved.

2. The Welsh Elections (Coronavirus) Bill was agreed by the Senedd on the 10th February 2021. It is hoped that Royal Assent will be achieved in the coming weeks. The Order has been drafted to accommodate the disapplication of section 4(2)(c) for the purpose of the 2021 general election.

In the event that Royal Assent is not achieved, the wording as set out in [1] above and which appears in article 2 of the Order, could be used to vary the form of wording of a proclamation made under section 4(2) of the 2006 Act in respect of the first meeting of the Senedd.

We are satisfied that there is sufficient statutory provision requiring the Senedd to meet in the period of 14 days or 21 days after the next General Election, either by virtue of the Welsh Elections (Coronavirus) Bill or Section 39 of the Senedd and Elections (Wales) Act 2020.

3. The form of wording of any proclamation made under section 5(4) of the 2006 Act may be varied on an interim basis, pursuant to the words as set out in [1] above and which appears in article 2 of the Order, to vary the date of the first meeting of the Senedd from 7 days to 14 days.

The words in article 2, as referred to at [1] above is intended to adopt interim changes, and as such, it is anticipated that the Order will need to be amended following the next General Election, to give effect to section 36 of the Senedd and Elections (Wales) Act 2020 in relation to the date of the first meeting.