

Explanatory Memorandum to The Representation of the People (Electoral Register Publication Date) (Wales) (Coronavirus) Regulations 2020

This Explanatory Memorandum has been prepared by Local Government and Democracy Department and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister/Deputy Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Representation of the People (Electoral Register Publication Date) (Wales) (Coronavirus) Regulations 2020.

Julie James, Minister for Housing and Local Government
14 July 2020

PART 1

1. Description

These regulations set the final publication date by which an Electoral Registration Officer (ERO) must publish the revised local government electoral register in Wales following the 2020 annual canvass, in accordance with section 13(1)(a) of the Representation of the People Act 1983 ("the 1983 Act"). The regulations move that date from 1 December 2020 to 1 February 2021. This effectively allows EROs an additional two months if needed to complete the 2020 annual canvass and publish their revised electoral register to take account of the impact on local authorities of the Covid-19 pandemic.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The requirement for an annual canvas to take place is set out in Section 9A (Registration officers: duty to take necessary steps) and section 9D (Maintenance of registers: duty to conduct canvass in Great Britain) of the 1983 Act.

Section 9D of the 1983 Act places a duty on EROs in Great Britain to conduct an annual canvass in the area for which they act. The purpose of the canvass is to ascertain the names and addresses of persons entitled to be registered and those who are registered but not entitled to be.

Section 9A of the 1983 Act places a duty on EROs to take all the necessary steps to maintain their registers and ensure, where reasonably practicable, all persons who are entitled to be registered are registered. Taking all necessary steps includes sending the canvass form and making household visits on one or more occasions.

Section 13(1)(a) of the 1983 Act places a duty on EROs to publish a revised version of their electoral register after the end of the annual canvas for that year and by no later than 1 December in each year, or by a later date which may be prescribed by regulations. The only exception, under section 13(1A) of the 1983 Act, is that, should an election be held between 1 July and 1 December in the ERO's area, the final publication date for the revised electoral register automatically becomes 1 February of the following year.

These regulations are being made under the affirmative resolution procedure.

4. Purpose and intended effect of the legislation

The current canvass gathers information on potential additions to, changes to,

and deletions from, the electoral register. Since the introduction of Individual Electoral Registration (“IER”) in 2014, EROs must individually invite potential new electors to apply to register to vote, and verify their identity, before they can be added to the electoral register. This process sits separately to the annual canvass but can, and generally does, occur concurrently.

The annual canvass period runs from 1 July to 1 December, and is driven by a requirement for EROs to publish a revised electoral register for their area by 1 December. The only exception to this is where an election is held in their area between 1 July and 1 December, when the deadline for publication of the revised electoral register is automatically extended to 1 February the following year. This gives EROs an additional two months to complete their canvass and compile their revised electoral register.

The Covid-19 pandemic has had a significant impact on the work of local authorities and on democratic services teams with some staff being redeployed to areas of need and many more staff working from home. These arrangements can make it difficult to carry out normal functions, including printing, receipt of forms, phone call canvassing etc. While the annual canvass process has recently been modernised elements remain paper based and are reliant on the work of staff in electoral services teams in local authorities to send out and receive paper correspondence.

The public health social distancing arrangements currently in place introduce uncertainty in relation to the ability of EROs to successfully canvass and register electors. The purpose of these regulations is to recognise the impact of Covid-19 and provide flexibility by extending the final publication date of the 2020 revised electoral register. This will allow EROs more time to conduct canvass activities, if necessary, enabling them to tailor the timing of the canvass and the publication of the 2020 revised electoral register to take account of their local circumstances.

Regulation 2 provides that the final date by which EROs in Wales must publish the 2020 revised local government register is 1 February 2021.

5. Consultation

The Electoral Commission was consulted in line with Sections 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000. The Electoral Commission did not recommend any changes to the policy. The Wales Electoral Co-ordination Board were consulted and agreed the additional flexibility would be welcomed and took into account that the current public health arrangements, could prevent the completion of the 2020 annual canvass in the usual timeframe.

6. Regulatory Impact Assessment (RIA)

An RIA has not been conducted as EROs will be required to undertake the same activities as they would normally, but they will be given an additional two months to complete them if necessary. As such we do not expect there to be

any cost impact associated with this legislation.

One minor impact could be in relation to credit reference agencies who use the electoral register to update information held on individuals' Credit Reference files. While electoral registers are updated and published on a monthly basis, these monthly updates are not usually published in the two months before the publication of the final revised electoral register, which in this instance could mean that the records held by credit reference agencies may not be updated in December 2020 or January 2021. However, this would also be true where an election is held in an ERO's area between 1 July and 1 December (see above). We therefore do not expect this to have a significant impact on the work of credit reference agencies.