

Draft Order laid before Senedd Cymru under section 13(7) of the Government of Wales Act 2006, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2020 No. (W. XX)

CONSTITUTIONAL LAW

**REPRESENTATION OF THE
PEOPLE, WALES**

**The Representation of the People
(Election Expenses Exclusion)
(Wales) (Amendment) Order 2020**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the National Assembly for Wales (Representation of the People) Order 2007 (“the 2007 Order”) which contains provisions in relation to Senedd elections, the Representation of the People Act 1983 (“the 1983 Act”) which contains provisions in relation to local government elections and the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”) which contains provisions in relation to both Senedd and local government elections.

The 2007 Order and subsequent amendment Orders were made by the Secretary of State, but the enabling powers were transferred to the Welsh Ministers by the Wales Act 2017.

Part 2 of this Order amends Part 2 of Schedule 7 to the 2007 Order.

The 2007 Order sets out certain requirements in relation to “election expenses” as defined in article 63 of that Order. These include a limitation on the permitted amount of such expenses, as set out in article 47 of that Order.

Part 2 of Schedule 7 to the 2007 Order sets out a list of matters which are “excluded” from being “election expenses” within the meaning of article 63 of that Order. Those matters are not subject to the

requirements described above, including those that limit the amount of permitted expenses.

Article 3 of this Order adds to that list, matters of expenditure incurred by or on behalf of a disabled candidate that are reasonably attributable to the candidate's disability. That expenditure must itself, be reasonably incurred.

Article 3 of this Order also adds to that list, matters of expenditure incurred by or on behalf of a candidate that are attributable to, or a consequence of, translating anything from English into Welsh or from Welsh into English.

Part 3 of this Order amends Part 2 of Schedule 4A to the 1983 Act.

The 1983 Act sets out certain requirements in relation to "election expenses" as defined in section 90ZA of that Act. These include a limitation on the permitted amount of such expenses, as set out in section 76 of that Act.

Part 2 of Schedule 4A to the 1983 Act sets out a list of matters which are "excluded" from being "election expenses" within the meaning of section 90ZA of that Act. Those matters are not subject to the requirements set out above, including those that limit the amount of permitted expenses.

Article 5 of this Order adds to that list, matters of expenditure incurred by or on behalf of a disabled candidate that are reasonably attributable to the candidate's disability. That expenditure must itself, be reasonably incurred.

Article 5 of this Order also adds to that list, matters of expenditure incurred by or on behalf of a candidate that are attributable to, or a consequence of, translating anything from English into Welsh or from Welsh into English.

Part 4 of this Order amends Part 1 of Schedule 8 to the 2000 Act as it applies to party candidates at both Senedd and local government elections.

The 2000 Act sets out certain requirements in relation to "campaign expenditure" as defined in section 72 of that Act. These include a limitation on the permitted amount of such expenses, as set out in section 79 of that Act.

Part 1 of Schedule 8 to the 2000 Act sets out a list of matters which are "excluded" from being "campaign expenditure" within the meaning of section 72 of that Act. Those matters are not subject to the requirements set out above, including those that limit the amount of permitted campaign expenditure.

Article 7 of this Order adds to that list, matters of expenditure incurred by or on behalf of a disabled candidate that are reasonably attributable to the candidate's disability. That expenditure must itself, be reasonably incurred.

Article 7 of this Order also adds to that list, matters of expenditure incurred by or on behalf of a candidate that are attributable to, or a consequence of, translating anything from English into Welsh or from Welsh into English.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order as it implements routine technical amendments which have no impact, or no significant, impact on the private, voluntary or public sectors.

Draft Order laid before Senedd Cymru under section 13(7) of the Government of Wales Act 2006, for approval by resolution of Senedd Cymru.

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2020 No. (W. XX)

CONSTITUTIONAL LAW

**REPRESENTATION OF THE
PEOPLE, WALES**

**The Representation of the People
(Election Expenses Exclusion)
(Wales) (Amendment) Order 2020**

Made

Coming into force

19 November 2020

The Welsh Ministers make this Order in exercise of the powers conferred on them by sections 13(1) and 157(2)(b) of the Government of Wales Act 2006(1) and in exercise of the powers conferred on the Secretary of State by paragraph 15(1) of Part 3 of Schedule 4A to the Representation of the People Act 1983(2) and paragraph 4 of Part 2 of Schedule 8 to the Political Parties, Elections and Referendums Act 2000(3) and now exercisable by them(4).

The Welsh Ministers have consulted the Electoral Commission in accordance with section 7(1), (2)(e) and (2)(f) of the Political Parties, Elections and Referendums Act 2000.

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- (1) 2006 c. 32. Section 13 was substituted by section 5(1) of the Wales Act 2017 (c. 4) and subsequently amended by the Senedd and Elections (Wales) Act 2020 (anaw 1).
- (2) 1983 c. 2. Schedule 4A was inserted by section 27(1) and (5) of the Electoral Administration Act 2006 (c. 22).
- (3) 2000 c. 41.
- (4) The powers of the Secretary of State were transferred, in relation to Wales, to the Welsh Ministers by the Welsh Ministers (Transfer of Functions) Order 2018 (S.I. 2018/644).

A draft of this Order was laid before, and approved by resolution of Senedd Cymru in accordance with section 13(7) of the Government of Wales Act 2006, paragraph 15(2) of Part 3 of Schedule 4A(1) of the Representation of the People Act 1983 and section 156(4)(j) of the Political Parties, Elections and Referendums Act 2000(2).

PART 1

General

Title, commencement and interpretation

1.—(1) The title of this Order is the Representation of the People (Election Expenses Exclusion) (Wales) (Amendment) Order 2020.

(2) This Order comes into force on 19 November 2020 but—

- (a) articles 2 and 3 only have effect for the purposes of a Senedd Cymru election at which the poll is held on or after 5 April 2021;
- (b) articles 4 and 5 only have effect for the purposes of a local government election in Wales at which the poll is held on or after 5 April 2021;
- (c) articles 6 and 7 have effect for the purposes of a Senedd Cymru election or a local government election in Wales at which the poll is held on or after 5 April 2021.

(3) In this Order—

- (a) “the 2007 Order” means the National Assembly for Wales (Representation of the People) Order 2007(3),
- (b) “the 1983 Act” means the Representation of the People Act 1983, and
- (c) “the 2000 Act” means the Political Parties, Elections and Referendums Act 2000.

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- (1) The reference to each House of Parliament in paragraph 15(2) of Part 3 of Schedule 4A to the Representation of the People Act 1983 is to be read as a reference to the National Assembly for Wales by virtue of paragraph 9(2)(b) of Schedule 3 to the Government of Wales Act 2006 (c. 32). The National Assembly for Wales was renamed Senedd Cymru by virtue of section 2 of the Senedd and Elections (Wales) Act 2020 (anaw 1).
 - (2) The reference to each House of Parliament in section 156(4) of the Political Parties, Elections and Referendums Act 2000 is to be read as a reference to the National Assembly for Wales by virtue of paragraph 9(2)(b) of Schedule 3 to the Government of Wales Act 2006 (c. 32). The National Assembly for Wales was renamed Senedd Cymru by virtue of section 2 of the Senedd and Elections (Wales) Act 2020 (anaw 1).
 - (3) S.I. 2007/236.

PART 2

New general exclusions from the definition of election expenses: Senedd Cymru elections

Amendment of the 2007 Order

2. The 2007 Order is amended in accordance with article 3.

3. In Part 2 of Schedule 7 to the National Assembly for Wales (Representation of the People) Order 2007 (General exclusions) after paragraph 13 insert the following—

“**13A.**—(1) Any matter that is reasonably attributable to the candidate’s disability, to the extent that the expenses in respect of the matter are reasonably incurred.

(2) In this paragraph “disability”, has the same meaning as in section 6 of the Equality Act 2010⁽¹⁾.

13B. Expenses incurred in respect of, or in consequence of, the translation of anything from Welsh into English or from English into Welsh.”

PART 3

New general exclusions from the definition of election expenses: local government elections in Wales

Amendment of the 1983 Act

4. The 1983 Act is amended in accordance with article 5.

5. In Part 2 of Schedule 4A to the Representation of the People Act 1983 (election expenses: general exclusions)—

(a) in paragraph 7A omit sub-paragraph (3);

(b) after paragraph 8 insert the following—

“**8A.** In relation to a local government election in Wales, expenses incurred in respect of, or in consequence of, the translation of anything from Welsh into English or from English into Welsh.”

(1) 2010 c. 15.

Part 4

New general exclusions from the definition of campaign expenditure: Senedd Cymru and local government elections in Wales

Amendment of the 2000 Act

6. The 2000 Act is amended in accordance with article 7.

7. In Part 1 of Schedule 8 to the Political Parties, Elections and Referendums Act 2000 (exclusions)—

- (a) in paragraph 2(1)(d) at the end of the sub-paragraph, omit the word “or”;
- (b) in paragraph 2(1)(e) at the end of the sub-paragraph, omit the word “him.” and insert “him; or”;

(c) after paragraph 2(1)(e) insert the following—

“(f) any expenses incurred in respect of a Senedd Cymru election or a local government election in Wales:

- (i) relating to any matter that is reasonably attributable to the candidate’s disability, to the extent that the expenses in respect of the matter are reasonably incurred; and
- (ii) in respect of, or in consequence of, the translation of anything from Welsh into English or from English into Welsh.”

(d) after paragraph 2(2) insert the following—

“(3) In relation to sub-paragraph 2(1)(f)(i) “disability”, has the same meaning as in section 6 of the Equality Act 2010.”

Name

Minister for Housing and Local Government, one of the Welsh Ministers

Date