

Explanatory Memorandum to The Representation of the People (Amendment) (Wales) (Coronavirus) Regulations 2021

This Explanatory Memorandum has been prepared by Education and Public Services and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

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 (Amendment) (Wales) (Coronavirus) Regulations 2021

Julie James MS
Minister for Housing and Local Government
26 January 2021

PART 1

1. Description

- 1.1. These Regulations make provision in relation to proxy voting at certain local government by-elections held between the coming into force of these regulations and 4th November 2021
- 1.2. Regulation 2 amends the Representation of the People (England and Wales) Regulations 2001, so as to provide applicants with additional grounds for applying for emergency proxy votes at these by-elections. These additional grounds relate to persons who are unable to attend a polling station in person as a result of following relevant legislation, guidance or medical advice in relation to the Covid-19 pandemic as well as allowing those who have an existing proxy vote to change their nominated proxy in the event the nominated individual has to isolate

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

- 2.1. The Regulations will come into force on 25 February 2021, and will apply to all relevant by-elections taking place after this date.

3. Legislative background

- 3.1. These Regulations are made under paragraph 4(2) and 6(7) and (8) of Schedule 4 to the Representation of the People Act 2000.

4. Purpose and intended effect of the legislation

- 4.1. The Regulations are temporary measures designed to provide an emergency proxy vote where an individual is following government or medical advice to self-isolate in relation to Covid-19.
- 4.2. The provisions are time limited and will cease to have effect after 4th November 2021.
- 4.3. Electoral law does not currently provide for scenarios where electors may need to apply for a proxy vote because they are required to self-isolate because of COVID-19. Therefore Welsh Government must amend the legislative framework for polls taking place in the near future, when the Covid-19 virus is still likely to be prevalent in our communities.

Proxy voting for those shielding

- 4.4. Paragraph 4 of schedule 4 of the Representation of the People Act 2000 makes provision for absent voting at a particular election. Paragraph 4(2)(a) specifically provides that the Returning Officer shall grant an application to vote by proxy where they are satisfied that the applicant's circumstances on the date of the poll will be, or are likely to be, such that the applicant cannot reasonably be expected to vote in person at a

relevant polling station. The circumstances of individuals self-isolating would fall into this category.

- 4.5. These Regulations amend regulation 56 of the Representation of the People (England and Wales) Regulations 2001, with the effect that the categories of people that can apply for an emergency proxy are extended to include individuals who cannot vote in person because they are following relevant legislation, Welsh Government guidance or medical advice in relation to coronavirus and self-isolating.
- 4.6. The changes are temporary and will only apply to elections held until 4th November 2021.
- 4.7. An application for an emergency proxy on medical grounds must be accompanied by attestation from a relevant professional. These Regulations do not place an attestation requirement on individuals who cannot vote in person because they are following Welsh Government or medical advice to self-isolate. This reflects the difficulty that someone self-isolating or shielding may have in getting an attestation from a suitable independent person.

5. Consultation

- 5.1. Due to the emergency nature of these Regulations the Welsh Government did not undertake a public consultation before the Regulations came into force. Views have been sought from the Electoral Commission and their comments that the provisions should also extend to electors with an existing proxy were taken into consideration in the drafting of the regulations.

6. Regulatory Impact Assessment (RIA)

- 6.1. These regulations are not considered to have any significant financial impact, and as such no regulatory impact assessment has been carried out.