

SL(5)750 – The Senedd Cymru (Letters Patent and Proclamations) Order 2021

Background and Purpose

The Senedd Cymru (Letters Patent and Proclamations) Order 2021 (“the Order”) relates to the Letters Patent that give Her Majesty’s Assent to a Bill passed by Senedd Cymru. The Order amends the name of the Senedd in the Letters Patent in accordance with the provisions of the Senedd and Elections (Wales) Act 2020 (“SEWA”). The Order also amends who is responsible for submitting Bills for Royal Assent, changing it from the Clerk of the Senedd to the Llywydd.

The Order includes the wording for royal proclamations relevant to the power of the Llywydd under section 4 of the Government of Wales Act 2006 (“GoWA”) and the duty of the Llywydd under section 5 of GoWA. Section 4 of GoWA gives the Llywydd the power to propose that the date of the poll for an ordinary general election of the Senedd be varied by up to one month from the first Thursday in May in the fifth year following the previous election. Section 5 of GoWA places a duty upon the Llywydd to propose a date for an extraordinary general election of the Senedd in specified circumstances. Following a proposal under either section 4 or section 5 of GoWA, Her Majesty may by proclamation dissolve the Senedd and set a date for the poll.

Procedure

Negative.

The Order was made by the Welsh Ministers before it was laid before the Senedd.

The Senedd can annul the Order within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date it was laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

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

1. 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.

Article 2 of the Order provides the form of wording for the Letters Patent and proclamations as set out in the Schedule to the Order, but states that such form of wording is:



subject only to such variations as are necessitated by the circumstances.

The Welsh Government is requested to provide further information as to:-

- a) why this wording is necessary; and
- b) what variations are envisaged by this wording.

In particular, in the context of the wording for a royal proclamation under section 4(2)(a) of GoWA, where the Senedd has already been dissolved, would the wording quoted above permit the omission of the words which dissolve the Senedd from the royal proclamation, thereby permitting the Llywydd to propose a change to the date of an election right up until the day before such election? If so, how does this fit with section 4(2)(a) of GoWA which specifically provides that the royal proclamation will dissolve the Senedd?

2. 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.

Section 4(2)(c) of GoWA provides that a proclamation to vary the date of the election must require that the first meeting of the Senedd takes place within 7 days of the election (although section 39 of SEWA extends this period to 14 days and comes into force on the day of the poll for the first election to take place after 5 April 2021).

However, the form of wording for a proclamation to be made under section 4(2) of GoWA, as set out in Part 2 of the Schedule to the Order, makes no reference to the timescale within which the Senedd is to meet for the first time following an election which takes place following such proclamation.

It is noted that section 4(2)(c) of GoWA has been disapplied for the purposes of the 2021 election only by the Welsh Elections (Coronavirus) Bill ("the Bill"), which was passed by the Senedd on 10 February 2021 (at the time of writing Royal Assent has not yet been received) for the Bill. Under section 5 of the Bill, the Senedd must meet within 21 days of the 2021 election, regardless of when such election takes place (no later than 5 November 2021 under the provisions of the Bill).

The Welsh Government is asked to confirm what steps it intends to take to ensure that the Order complies with section 4(2)(c) of GoWA.

3. 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.

Section 5(4)(c) of GoWA provides that a proclamation to declare an extraordinary Senedd election must require that the first meeting of the Senedd takes place within 7 days of the election. SEWA extends this period to 14 days for the first election to take place after 5 April 2021. The Welsh Government is asked to confirm what steps it intends to take in the future to ensure that the Order complies with section 5(4)(c) of GoWA as amended.



Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

23 February 2021



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee