

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government



Llywodraeth Cymru
Welsh Government

John Griffiths, AM
Chair
Equality, Local Government and Communities Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

29 January 2020

Dear John,

Local Government and Elections (Wales) Bill - Further information following the meeting held on 27 November 2019

Further to my appearance at Committee on 27 November, I also enclose drafts of the proposed stage 2 amendments relating to the extension of the franchise for local government elections to certain prisoners and young people in custody from Wales.

The drafts are substantially developed and address the key issues about the proposed enfranchisement, residence and registration; we shall share the drafts with other interested persons also. We shall have the opportunity to refine the drafts in light of comments received from the Committee and others, before tabling the amendments at stage 2.

I look forward to receiving any views or comment the Committee may have on these draft provisions.

Yours sincerely,

Julie James AC/AM
Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

RHESTR O WELLIANNAU DRAFFT LIST OF DRAFT AMENDMENTS

Bil Llywodraeth Leol ac Etholiadau (Cymru) Local Government and Elections (Wales) Bill Gwelliannau drafft estyn y bleidlais i garcharorion Draft prisoner voting amendments 27 Ionawr 2020 27 January 2020

Julie James	1
Section 2, page 2, line 11, leave out subsection (2).	
Adran 2, tudalen 2, llinell 11, hepgorer is-adran (2).	
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Section 2, page 2, after line 15, insert—	
‘(3) In section 3 of the 1983 Act (disenfranchisement offenders in prison etc.)—	
(a) in subsection (1), after “election” insert “, unless subsection (1A) applies to that person”;	
(b) after subsection (1) insert—	
“(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years.	
(1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section 173 (persons convicted of corrupt or illegal practice).	
(1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person—	
(a) on the same occasion, or	

- (b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last.”
- (c) In subsection (2), for “this purpose” substitute “the purposes of this section”.’.

Adran 2, tudalen 2, ar ôl llinell 15, mewnosoder –

‘(3) Yn adran 3 o Ddeddf 1983 (difreinio troseddwyd sydd yn y carchar etc.) –

- (a) yn is-adran (1), ar ôl “election” mewnosoder “, unless subsection (1A) applies to that person”;
- (b) ar ôl is-adran (1) mewnosoder –
 - “(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years.
 - (1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section 173 (persons convicted of corrupt or illegal practice).
 - (1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person –
 - (a) on the same occasion, or
 - (b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last.”
- (c) Yn is-adran (2), yn lle “this purpose” rhodder “the purposes of this section”.’.

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Page 2, after line 24, insert a new section –

‘3 Consequential amendments to retain existing franchise for Senedd Cymru elections

In section 12 of the Government of Wales Act 2006 (c. 32) (entitlement to vote in Senedd elections) –

- (a) in subsection (1)(a), for “or fall within the extended franchise for Senedd elections as described in this section” substitute “, except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c. 2)”;
- (b) omit subsection (1A);
- (c) omit subsection (1B).’.

Tudalen 2, ar ôl llinell 25, mewnosoder adran newydd –

‘3 Diwygiadau canlyniadol i barhau’r etholfraint bresennol yn etholiadau Senedd Cymru

Yn adran 12 o Ddeddf Llywodraeth Cymru 2006 (p. 32) (hawlogaeth i bleidleisio yn etholiadau’r Senedd) –

- (a) yn is-adran (1)(a), yn lle “or fall within the extended franchise for Senedd elections as described in this section” rhodder “, except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c. 2)”;
- (b) hepgorer is-adran 1A);
- (c) hepgorer is-adran (1B).’.

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Section 3, page 2, after line 33, insert –

- ‘(3) Despite the coming into force of the amendments made by the provisions mentioned in subsection (4) by virtue of section 171(3), they only have effect for the purposes of an election for membership of Senedd Cymru at which the poll is held on or after 5 April 2021.
- (4) The provisions are –
 - (a) section 2, so far as it has consequential effects on section 12 of the Government of Wales Act 2006 (c. 32);
 - (b) section [*inserted by amendment 3*];
 - (c) paragraph 8(3)(b) of Schedule 2.’.

Adran 3, tudalen 2, ar ôl llinell 36, mewnosoder –

- ‘(3) Er gwaethaf y ffaith bod y diwygiadau a wneir gan y darpariaethau a grybwyllir yn is-adran (4) yn dod i rym yn rhinwedd adran 171(3), nid ydynt ond yn cael effaith at ddibenion etholiad ar gyfer aelodaeth o Senedd Cymru pan gynhelir y bleidlais ar 5 Ebrill 2021 neu ar ôl hynny.
- (4) Y darpariaethau yw –
 - (a) adran 2, i’r graddau y mae ganddi effeithiau canlyniadol ar adran 12 o Ddeddf Llywodraeth Cymru 2006 (p. 32);
 - (b) adran [*a fewnosodir gan welliant 3*];
 - (c) paragraff 8(3)(b) o Atodlen 2.’.

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Section 171, page 108, line 18, after ‘2’, insert ‘and [*section inserted by amendment 3*]’.

Adran 171, tudalen 108, llinell 18, ar ôl ‘2’, mewnosoder ‘a [*adran a fewnosodir gan welliant 3*]’.

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Schedule 2, page 119, after line 10, insert –

‘(2) In section 7A (residence: persons remanded in custody etc.) –

(a) after subsection (1) insert –

“(1A) But this section does not apply to the registration of local government electors in Wales.”;

(b) in subsection (6), after “In this section” insert “and section 7AA”.

(3) After section 7A insert –

“7AA Residence of persons in custody for registration of local government electors in Wales

(1) This section applies to the registration of local government electors in Wales.

(2) Subsection (3) applies to –

(a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and

(b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after –

(i) being convicted of any offence, or

(ii) a finding in criminal proceedings that the person did the act or made the omission charged.

(3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person’s residence is not to be taken to have been interrupted by reason of the person’s detention if –

(a) the person –

(i) intends to resume actual residence there when released from detention (other than on temporary release), and

(ii) will not be prevented from doing so by an order of any court, or

(b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person’s detention.

(4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person’s residence is not to be taken to have been interrupted by the person’s detention if –

(a) a declaration of local connection is in force in respect of the person, and

- (b) the declaration was made by virtue of the person falling within section 7B(2)(c)."
- (4) In section 7B (notional residence: declarations of local connection) –
 - (a) in subsection (2A) –
 - (i) omit paragraph (a);
 - (ii) in paragraph (b), for “paragraphs (a) to (c)” substitute “paragraphs (a) or (c)”;
 - (iii) in paragraph (c), after “(2B)” insert “or (2E)”;
 - (b) for subsection (2B) substitute –
 - “(2B) The requirements are that the person –
 - (a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or
 - (b) is being kept in secure accommodation.”;
 - (c) omit subsection (2C);
 - (d) after subsection (2D) insert –
 - “(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person –
 - (a) to whom section 7AA applies (persons in custody), and
 - (b) who would not be entitled to be registered as resident at the place in which the person is in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.”;
 - (e) in subsection (4), after paragraph (c) insert –
 - “(d) in the case of a person falling within subsection (2E) –
 - (i) the address in Wales where the person would be residing but for the person’s detention,
 - (ii) if the person cannot give an address under subparagraph (i), the address in Wales at which the person was resident immediately before the person’s detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person’s time (whether during the day or night), or
 - (iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court (“the prohibited address”), an address used by a council of a county or county borough in Wales in whose area the prohibited address is located.”;
 - (f) in subsection (7B)(a), after “(2A)” insert “or (2E)”;

(g) after subsection (7C), insert –

“(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court.”.

Atodlen 2, tudalen 119, ar ôl llinell 11, mewnosoder –

‘(2) Yn adran 7A (preswylfa: personau sydd wedi eu remandio yn y ddalfa etc.) –

(a) ar ôl is-adran (1) mewnosoder –

“(1A) But this section does not apply to the registration of local government electors in Wales.”;

(b) yn is-adran (6), ar ôl “In this section” mewnosoder “and section 7AA”.

(3) Ar ôl is-adran 7A mewnosoder –

“7AA Residence of persons in custody for registration of local government electors in Wales

(1) This section applies to the registration of local government electors in Wales.

(2) Subsection (3) applies to –

(a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and

(b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after –

(i) being convicted of any offence, or

(ii) a finding in criminal proceedings that the person did the act or made the omission charged.

(3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person’s residence is not to be taken to have been interrupted by reason of the person’s detention if –

(a) the person –

(i) intends to resume actual residence there when released from detention (other than on temporary release), and

(ii) will not be prevented from doing so by an order of any court, or

(b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person’s detention.

- (4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person's residence is not to be taken to have been interrupted by the person's detention if-
 - (a) a declaration of local connection is in force in respect of the person, and
 - (b) the declaration was made by virtue of the person falling within section 7B(2)(c)."
- (4) Yn adran 7B (preswylfa dybiannol: datganiadau o gysylltiad lleol) –
 - (a) yn is-adran (2A) –
 - (i) hepgorer paragraff (a);
 - (ii) ym mharagraff (b), yn lle "paragraphs (a) to (c)" rhodder "paragraphs (a) or (c)";
 - (iii) ym mharagraff (c), ar ôl "(2B)" mewnosoder "or (2E)";
 - (b) yn lle is-adran (2B) rhodder –
 - "(2B) The requirements are that the person –
 - (a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or
 - (b) is being kept in secure accommodation.";
 - (c) hepgorer is-adran (2C);
 - (d) ar ôl is-adran (2D) mewnosoder –
 - "(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person –
 - (a) to whom section 7AA applies (persons in custody), and
 - (b) who would not be entitled to be registered as resident at the place in which the person is in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.";
 - (e) yn is-adran (4), ar ôl paragraff (c) mewnosoder –
 - "(d) in the case of a person falling within subsection (2E) –
 - (i) the address in Wales where the person would be residing but for the person's detention,
 - (ii) if the person cannot give an address under subparagraph (i), the address in Wales at which the person was resident immediately before the person's detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person's time (whether during the day or night), or

- (iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court (“the prohibited address”), an address used by a council of a county or county borough in Wales in whose area the prohibited address is located.”;
- (f) yn is-adran (7B)(a), ar ôl “(2A)” mewnosoder “or (2E)”;
- (g) ar ôl is-adran (7C), mewnosoder –
 - “(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court.”.

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Schedule 2, page 123, after line 7, insert –

- ‘(b) in paragraph 2 (manner of voting), after sub-paragraph (6) insert –
 - “(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”;
- (c) in paragraph 3(3) (absent vote at elections for definite or indefinite period) –
 - (i) in paragraph (c) omit the “or” at the end of the paragraph;
 - (ii) at the end of paragraph (d) insert “, or”;
 - (iii) after paragraph (d) insert –
 - “(e) in the case of local government elections in Wales, if the person is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies,”.

Atodlen 2, tudalen 123, ar ôl llinell 7, mewnosoder –

- ‘(b) ym mharagraff 2 (y modd o bleidleisio), ar ôl is-baragraff (6) mewnosoder –
 - “(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”;

- (c) ym mharagraff 3(3) (pleidlais absennol mewn etholiadau am gyfnod penodol neu amhenodol) –
- (i) ym mharagraff (c) hepgorer yr “or” ar ddiwedd y paragraff;
 - (ii) ar ddiwedd paragraff (d) mewnosoder “, or”;
 - (iii) ar ôl paragraff (d) mewnosoder –
 - “(e) in the case of local government elections in Wales, if the person is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies,”.

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Schedule 2, page 123, after line 14, insert –

- ‘(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person.’.

Atodlen 2, tudalen 123, ar ôl llinell 14, mewnosoder –

- ‘(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person.’.

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Schedule 2, page 124, after line 18, insert –

- ‘(2) Omit sections 10 and 11.’.

Atodlen 2, tudalen 124, ar ôl llinell 19, mewnosoder –

- ‘(2) Hepgorer adrannau 10 ac 11.’.



John Griffiths, AM
Chair
Equality, Local Government and Communities Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
CF99 1NA

2 March 2020

Dear John,

Local Government and Elections (Wales) Bill - Further information regarding draft proposed amendments for Prisoner Voting

In my letter of 29 January I enclosed drafts of the proposed stage 2 amendments relating to the extension of the franchise for local government elections to certain prisoners and young people in custody from Wales. I am pleased to send the Committee a draft of the purpose and effect table to accompany the amendments and a policy note.

In addition, during my appearance at Finance Committee on 6 February I said I would make information available on the estimated costs. The costs associated with Stage 2 amendments are not normally provided until after the amendment is passed, but on an exceptional basis and setting no precedent, the information is provided below.

- The proposed enfranchisement of certain prisoners and young people in custody will add about 1,900 voters to the electoral register. Registering 1,900 new voters will cost about £2,300 in total across Wales (being £1.22 per elector); this will be a cost which will recur annually from 2021-22. The administrative costs of eligible prisoners and young people being able to vote at the local government elections in May 2022 would be about £4,300 in total across Wales (being £2.23 per elector). The latter cost will arise on a five-yearly basis. The costs of registration and election administration will fall to the local authorities.
- There may be some additional requirements in terms of the communications and voter education streams of work already planned for 16/17 year olds and qualifying foreign citizens. The number of additional prisoner voters is so small that if the communications and education materials need to be tailored in any way for prisoner voters the cost will be accommodated within the general budget for those items as reported in the Regulatory Impact Assessment (RIA).
- There will also be costs associated with the updating of electoral management systems (EMS) used by local authorities to compile the electoral register. Services in relation to the 22 principal councils' registers are provided by three software companies all of which would need to introduce changes to their software necessary for registration officers to meet the requirements which our prisoner voting amendments would place upon them.

These costs will be incurred in 2021-22. We are in the process of estimating these costs and should this amendment be passed at Stage 2 then they will be included in the updated RIA published before Stage 3.

If the Bill is amended at Stage 2, the Explanatory Memorandum, including the Regulatory Impact Assessment (RIA) will be updated and the Committee will be informed of the changes in the usual manner.

I look forward to receiving any views or comments the Committee may have before we table the amendments formally at Stage 2.

I am also sharing this information with the Finance Committee and the Legislation Justice and Constitution Committee.

Yours sincerely,



Julie James AC/AM

Y Gweinidog Tai a Llywodraeth Leol
Minister for Housing and Local Government

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

LOCAL GOVERNMENT and ELECTIONS (WALES) BILL – DRAFTS OF PROPOSED STAGE 2 GOVERNMENT AMENDMENTS FOR ENFRANCHISEMENT OF PRISONERS AND YOUNG PEOPLE IN CUSTODY

This table provides information about the drafts of the proposed Stage 2 Government amendments to provide for certain prisoners and young people from Wales to vote in local government elections (relating to the drafts forwarded to ELGC Committee by the Minister for Housing and Local Government on 29 January 2020).

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
1.	Section 2, page 2, line 11, leave out subsection (2).	The amendment omits section 2(2) of the Local Government and Elections (Wales) Bill (“this Bill”) as introduced, which would amend section 12 of the Government of Wales Act 2006 (“GOWA 2006”) (as amended by sections 10 and 11 of the Senedd and Elections (Wales) Act 2020 (“the 2020 Act”). This prepares the way for amendments 2 and 3 below. Sections 10 and 11 of the 2020 Act amended section 12 of the 2006 Act, enfranchising for Senedd elections 16 and 17 year olds (section 10) and qualifying foreign citizens (section 11). Section 12 of the 2020 Act entitled 16 and 17 year olds and qualifying foreign citizens to be registered in a register of local government electors in Wales, albeit sections 10(4) and 11(2) specified that these voters were entitled to vote in elections to the Senedd only (held on or after 5 April 2021). Section 2(1) of this Bill amends section 2 of the Representation of the People Act 1983 (“the 1983 Act”) so 16 and 17 year olds and qualifying foreign citizens are enfranchised to vote in local government elections in Wales also. Section 2(2) of this Bill as introduced would amend GOWA 2006 so the provisions inserted by the Senedd Act (sections 10 and 11) introducing the “extended franchise for Senedd elections” are removed –

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
		there no longer being any differences between the franchise for Senedd and local government elections in respect of 16 and 17 year olds and qualifying foreign citizens. However, the enfranchisement of certain prisoners and young people in custody from Wales (by virtue of amendment 2) for local government elections only, necessitates new provision, so the change achieved by amendment 2 does not apply to Senedd elections – hence amendment 3.
2	Section 2, page 2, after line 15, insert— ‘(3) In section 3 of the 1983 Act (disenfranchisement offenders in prison etc.)— (a) in subsection (1), after “election” insert “, unless subsection (1A) applies to that person”; (b) after subsection (1) insert— “(1A) A convicted person is not legally incapable of voting at a local government election in Wales by virtue of subsection (1) during the time that the person is detained in a penal institution in pursuance of a sentence imposed for a term of less than 4 years. (1B) But subsection (1A) does not apply if the convicted person is incapable of voting in a local government election by virtue of section	Amendment 2 amends section 2 of this Bill to insert a new subsection (3) which amends section 3 of the 1983 Act (which concerns the disenfranchisement of convicted offenders who are in prison). The first part of the amendment (the new subsection (3)(a) in this Bill) amends section 3(1) of the 1983 Act to carve out an exception to the general disenfranchisement of convicted offenders. The exception is expressed in the new subsection 1A to be inserted in section 3(1) of the 1983 Act, namely that convicted prisoners are not disenfranchised from voting in local government elections in Wales if they are serving a sentence of less than 4 years in a penal institution. The new subsection 1B, inserted into section 3 of the 1983 Act, provides that the enfranchisement provided for by subsection 1A will not apply if the prisoner has been convicted of a corrupt or illegal practice under section 173 of the 1983 Act. Such convictions concern corrupt or illegal practices in relation to elections and the sentence includes banning the convicted person from registering as an elector for a specified period of 3 or 5 years.

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	173 (persons convicted of corrupt or illegal practice). (1C) In calculating the term of a sentence of a convicted person for the purpose of subsection (1A), terms that are consecutive or concurrent to any extent are to be treated as a single term if the sentences were imposed on the person— (a) on the same occasion, or (b) on different occasions but the person was not released (other than on temporary release) at any time during the period beginning with the first occasion and ending with the last.” (c) In subsection (2), for “this purpose” substitute “the purposes of this section”.’.	The new subsection 1C, inserted into section 3 of the 1983 Act provides that in calculating the sentence of a convicted person, sentences that are consecutive or concurrent are treated as a single term, whether imposed on the same occasion (subsection (1C(a)) or on different occasions, during the term of a sentence already imposed (subsection (1C)(c)). If a person is sentenced on the same occasion to two terms of 2 years, which are to run consecutively, they will have breached the 4 year threshold and will not be enfranchised. A person sentenced to and serving a sentence of 3 years, who 1 year into that sentence is convicted of another offence and sentenced to a further term of 2 years, which is to run consecutively, will lose their entitlement to vote at the time the second sentence is imposed. Subsection 3(2) of the 1983 Act is amended by new section 2(3)(c) in this Bill so it refers to “for the purposes of this section” rather than “for this purpose”, in recognition that by virtue of the changes made by this amendment, section 3 of the 1983 Act addresses more than a single purpose.
3	Page 2, after line 24, insert a new section— ‘3 Consequential amendments to retain existing franchise for Senedd Cymru elections In section 12 of the Government of Wales Act 2006 (c. 32) (entitlement to vote in Senedd elections)—	Amendment 3 inserts a new section in this Bill which amends section 12 of GOWA 2006 (entitlement to vote in Senedd elections). The new section 3(1A) of the 1983 Act, to be inserted by Amendment 2 above, will enable certain prisoners and young people in custody to be registered as local government electors in Wales. The effect of the new section 3(1)(a) in this Bill, inserted by this amendment, is to amend section 12(1)(a) of GOWA 2006 so those entitled to vote at a Senedd election are those who are registered as local

No.	GOVERNMENT AMENDMENT	PURPOSE AND EFFECT
	(a) in subsection (1)(a), for “or fall within the extended franchise for Senedd elections as described in this section” substitute “, except those entitled to vote in such an election by virtue of section 3(1A) of the Representation of the People Act 1983 (c.2)”; (b) omit subsection (1A); (c) omit subsection (1B).’	government electors in Wales, except those enfranchised for local government elections by the new section 3(1A) of the 1983 Act (i.e. any prisoners or young persons in custody). The new sections 3(1)(b) and (c) in this Bill, inserted by this amendment, omit subsections (1A) and (1B) of section 12 of GOWA 2006 as amended by sections 10 and 11 of the 2020 Act respectively. Sections 10 and 11 of the 2020 Act are no longer necessary; they provided that the extension of the local government franchise to 16 and 17 year olds and qualifying foreign citizens should apply for Senedd elections only (section 10) and (section 11) respectively.
4	Section 3, page 2, after line 33, insert— ‘(3) Despite the coming into force of the amendments made by the provisions mentioned in subsection (4) by virtue of section 171(3), they only have effect for the purposes of an election for membership of Senedd Cymru at which the poll is held on or after 5 April 2021. (4) The provisions are— (a) section 2, so far as it has consequential effects on section 12 of the Government of Wales Act 2006 (c. 32); (b) section <i>[inserted by amendment 3]</i>;	Amendment 4 inserts new subsections (3) and (4) in section 3 of this Bill, as introduced, so that the provisions specified in the new subsection (4), although coming into force two months after this Bill receives Royal Assent (by virtue of section 171(3) of this Bill, as introduced), will only have effect for the purposes of a Senedd election held on or after 5 April 2021. The provisions listed in subsection (4)(a) and (b) are those which make consequential changes (by amendments listed above) to section 12 of GOWA 2006 to ensure that the enfranchisement of certain prisoners and young persons in custody does not apply to Senedd elections.

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	(c) paragraph 8(3)(b) of Schedule 2.’.	
5	Section 171, page 108, line 18, after ‘2’, insert ‘and [section inserted by amendment 3]’.	Amendment 5 inserts reference to the new section inserted in this Bill by Amendment 3 above into section 171(3)(b) of this Bill (Coming into force). The new section will come into force two months after this Bill receives Royal Assent, but this is subject to section 3 of the Bill (as introduced), as amended by Amendment 4 above. Accordingly, the new section (which concerns consequential amendments to retain the existing franchise for Senedd elections) will only have effect for the purposes of an election to Senedd Cymru, held on or after 5 April 2021.
6	Schedule 2, page 119, after line 10, insert— ‘(2) In section 7A (residence: persons remanded in custody etc.)— (a) after subsection (1) insert— “(1A) But this section does not apply to the registration of local government electors in Wales.”; (b) in subsection (6), after “In this section” insert “and section 7AA”. (3) After section 7A insert—	Amendment 6 inserts new provision after paragraph (1) in Schedule 2 to this Bill to make various amendments (as follows) to Part I of the 1983 Act (Entitlement to registration). The new paragraph 2(2) in Schedule 2 to this Bill inserts a new subsection (1A) in section 7A of the 1983 Act (Residence: persons remanded in custody), to the effect of dis-applying section 7A of the 1983 Act for the purposes of registering remand prisoners as local government electors. The amendment to subsection (6) of section 7A of the 1983 Act provides that remand prisoners will be registered as local government electors on the same basis as other prisoners enfranchised by this legislation, for whom the new section 7AA inserted in the 1983 Act by this Amendment will apply.

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	“7AA Residence of persons in custody for registration of local government electors in Wales (1) This section applies to the registration of local government electors in Wales. (2) Subsection (3) applies to— (a) a person to whom section 3(1A) applies (convicted person detained and sentenced to a term of less than 4 years), and (b) a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after— (i) being convicted of any offence, or (ii) a finding in criminal proceedings that the person did the act or made the omission charged. (3) In determining whether the person is resident in a dwelling on the relevant date for the purpose of section 4(3)(a), the person’s residence is not to be taken to have been interrupted by reason of the person’s detention if— (a) the person—	Subsection (3) of this Amendment inserts a new section 7AA into the 1983 Act; the new section makes provision about the residence of persons in custody (adult and young people) for the purposes of their registration as local government electors. Subsection (3) of the new section 7AA provides that the residence of a person in custody (for the purpose of their registration as a local government elector) will be considered not to have been interrupted if (i) they intend resuming residence at a dwelling where they resided before their detention (provided they are not prevented from doing so by a court order); or (ii) they would be resident at a dwelling on a permanent basis but for their detention. Subsection (4) of the new section 7AA provides that the residence of a person in custody will be considered not to have been interrupted if a declaration of local connection is in force for that person, by virtue of their being homeless (in which state they are a person falling within section 7B(2)(c) of the 1983 Act). The new subparagraph (4), inserted in Schedule 2 to this Bill by this Amendment, makes several amendments to section 7B (notional residence: declarations of local connection) of the 1983 Act, as amended by section 19 of the 2020 Act. The amendments in subparagraph (4)(a) amend subsection (2A) (as inserted by section 19 of the 2020 Act) to pave the way for new arrangements in respect of certain declarations of local connection to be inserted by subparagraphs (4)(b) to (4)(g).

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	(i) intends to resume actual residence there when released from detention (other than on temporary release), and (ii) will not be prevented from doing so by an order of any court, or (b) the dwelling serves as a permanent place of residence (whether for the person alone or with other persons) and the person would be in actual residence there but for the convicted person's detention. (4) In determining whether the person is resident in a place on the relevant date for the purposes of section 4(3)(a), the person's residence is not to be taken to have been interrupted by the person's detention if- (a) a declaration of local connection is in force in respect of the person, and (b) the declaration was made by virtue of the person falling within section 7B(2)(c)." (4) In section 7B (notional residence: declarations of local connection)— (a) in subsection (2A)— (i) omit paragraph (a);	Subparagraph (4)(a)(i) of this Amendment omits subsection (2A)(a) of section 7B of the 1983 Act (as inserted by section 19 of the 2020 Act); subsection (2A)(a) provided that a person entitled to make a declaration of local connection by virtue of being a person enabled to make such a declaration by virtue of subsection (2B) of section 7B (as inserted by section 19 of the 2020 Act) had to be under 18 years of age. Subsection (2B) is amended by this Amendment (see below) and the threshold is no longer appropriate for all categories included in the new subsection (2B). Subparagraph (4)(a)(ii) of this Amendment amends subsection (2) of section 7B of the 1983 Act to omit the reference to section 7A of the 1983 Act, which is dis-applied for the purposes of registering as a local government elector by the new subparagraph (2) of Schedule 2 to this Bill, as inserted by this Amendment (see above). Subparagraph (4)(a)(iii) of this Amendment amends subsection (2A)(c) of the 1983 Act (as inserted by section 19 of the 2020 Act) to insert reference to the new subsection (2E) to be inserted in section 7B of the 1983 Act by this Amendment (see below). Subparagraph (4)(b) of this Amendment substitutes a new subsection (2B) in section 7B of the 1983 Act, so the persons specified in the new subsection (2B) may register as local government electors by making a declaration of local connection; namely (i) a person who is under 18 years of age and is a child looked after by a local authority; or (ii) a person being kept in secure accommodation. The requirement that a person in secure accommodation must be under 18 years of age is thereby removed. Secure accommodation is defined in subsection (2D)(b) of section 7B of the 1983 Act as inserted by section 19 of the 2020 Act.

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	(ii) in paragraph (b), for “paragraphs (a) to (c)” substitute “paragraphs (a) or (c)”; (iii) in paragraph (c), after “(2B)” insert “or (2E)”; (b) for subsection (2B) substitute— “(2B) The requirements are that the person— (a) is under 18 years of age and is, or has been, a child who is looked after by a local authority, or (b) is being kept in secure accommodation.”; (c) omit subsection (2C); (d) after subsection (2D) insert— “(2E) In relation to the registration of local government electors in Wales, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1), is a person— (a) to whom section 7AA applies (persons in custody), and (b) who would not be entitled to be registered as resident at the place in which the person is	Subparagraph 4(c) of this Amendment omits subsection (2C) of section 7B of the 1983 Act so there is no longer any requirement that the Welsh Ministers first specify, in regulations, the circumstances of secure accommodation in which persons are kept. Subparagraph (4)(d) of this Amendment inserts a new subsection (2E) in section 7B of the 1983 Act (as amended by the 2020 Act). The new subsection (2E) enables a person in custody to make a declaration of local connection if they are a person covered by the new section 7AA of the 1983 Act (see above) and they are prevented from registering as a local government elector by section 5(6) of the 1983 Act or are not already enabled to register as a local government elector by virtue of the provisions in the new section 7AA of the 1983 Act. Subparagraph (4)(e) of this Amendment inserts a new subsection (d) in subsection (4) of section 7B of the 1983 Act, so the “required address” (which is the address which constitutes the person’s connection to the area where they seek to be registered as a local government elector) for a person falling within the new subsection (2E) is as specified in the new subsection (4)(d)(i) to (iii) as inserted by this Amendment. Such a person must provide the address at which they would be residing were they not in detention; if they are unable to give such an address, they must give the address at which they were resident immediately before their detention (but this must not be a penal institution) or, if homeless, an address where they spent a substantial part of their time. If they are only able to give an address which is one at which they would be prevented from residing by court order, they must give the address of the principal council in whose area that address is located.

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	in legal custody by virtue of section 5(6) or any other place by virtue of section 7AA.”; (e) in subsection (4), after paragraph (c) insert— “(d) in the case of a person falling within subsection (2E)— (i) the address in Wales where the person would be residing but for the person’s detention, (ii) if the person cannot give an address under subparagraph (i), the address in Wales at which the person was resident immediately before the person’s detention (but not the address of a penal institution), or if the person was homeless at that time, the address of, or which is nearest to, a place in Wales where the person commonly spent a substantial part of the person’s time (whether during the day or night), or (iii) if the person can only give an address under paragraph (i) or (ii) at which the person would be prevented from residing because of an order of any court (“the prohibited address”), an address used by a council of a	Subparagraph (4)(f) of this Amendment amends subsection (7B)(a) of section 7B of the 1983 Act (as inserted by section 19 of the 2020 Act) so the definition of “relevant declaration” includes one made under the new subsection (2E) of the 1983 Act as inserted by this Amendment and so has effect only for the person’s registration as a local government elector. Subparagraph (4)(g) of this Amendment inserts a new subsection (7D) in section 7B of the 1983 Act (as amended by section 19 of the 2020 Act) so a person in custody, in making a declaration of local connection, may not give, either (i) for the receipt of correspondence from the electoral registration officer or the returning officer, or (ii) as the dwelling which constitutes the person’s connection to the area, an address at which they would be prevented from residing because of a court order.

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	county or county borough in Wales in whose area the prohibited address is located.”; (f) in subsection (7B)(a), after “(2A)” insert “or (2E)”; (g) after subsection (7C), insert— “(7D) In a relevant declaration, a person may not give an address under subsection (3)(a)(i) or subsection (4)(d)(i) or (ii) at which the person would be prevented from residing because of an order of a court.”.	
7	Schedule 2, page 123, after line 7, insert— ‘(b) in paragraph 2 (manner of voting), after sub-paragraph (6) insert— “(6ZA) In relation to a local government election in Wales, nothing in the preceding provisions of this paragraph applies to a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies; and such a person may	Amendment 7 amends paragraph 8(3)(b) of Schedule 2 to this Bill to insert a new sub-paragraph (6ZA) in paragraph 2 of Schedule 4 to the Representation of the People Act 2000 (the 2000 Act). The effect of the new paragraph (6ZA) is that a person in custody, enfranchised for local government elections by virtue of section 3(1A) of the 1983 Act to be inserted by Amendment 2 above, may vote in a local government election by post or by proxy only. Amendment 7 also amends paragraph 8(3)(b) of Schedule 2 to this Bill to insert a new paragraph (e) in paragraph 3(3) of Schedule 4 to the 2000 Act, so a person in custody, enfranchised for local government elections by virtue of section 3(1A) of the 1983 Act to be inserted by Amendment 2 above, is considered to be eligible to vote by proxy (at local government elections only).

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	only vote by post or by proxy (where the person is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”; (c) in paragraph 3(3) (absent vote at elections for definite or indefinite period)— (i) in paragraph (c) omit the “or” at the end of the paragraph; (ii) at the end of paragraph (d) insert “, or”; (iii) after paragraph (d) insert— “(e) in the case of local government elections in Wales, if the person is a person to whom section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years	

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	capable of voting in local government elections) applies,”’.	
8	Schedule 2, page 123, after line 14, insert— ‘(5B) A person is not capable of voting as proxy at a local government election in Wales if on the date of the election section 3(1A) of the 1983 Act (convicted persons detained and sentenced to a term of less than 4 years capable of voting in local government elections) applies to the person.’”.	Amendment 8 amends Paragraph 8(3)(b) of Schedule 2 to this Bill to insert a new sub-paragraph (5B) in paragraph 6 of Schedule 4 to the 2000 Act (Proxies at elections), so a person in custody, enfranchised for local government elections by virtue of section 3(1A) of the 1983 Act (to be inserted by Amendment 2 above), is not entitled to be a proxy for another voter at a local government election.
9	Schedule 2, page 124, after line 18, insert— ‘(2) Omit sections 10 and 11.’.	Amendment 9 amends Paragraph 16 of Schedule 2 to this Bill, to insert a new sub-paragraph 2. The purpose is to amend the 2020 Act to omit sections 10 and 11 of the 2020 Act. Sections 10 and 11 of the 2020 Act provided for the enfranchisement of 16 and 17 year olds and qualifying foreign citizens and for these extensions to apply for Senedd elections only. Section 2 of this Bill provides for 16 and 17 year olds and qualifying foreign citizens to vote in local government elections also, so sections 10 and 11 of the 2020 Act are no longer necessary.

Prisoner voting in Local Government elections in Wales

Policy intention

The proposed amendments will enfranchise prisoners and young people¹ in custody from Wales serving a custodial sentence of less than four years for local government elections in Wales. This will entitle an additional approximately 1,900 adult prisoners and approximately 20 young people in custody to vote at the next ordinary local government elections (across all principal and community councils) to be held in May 2022.

Eligible prisoners would register to vote on the basis of an address in Wales, with which they have a connection; this might be their family home, their previous residence or, if homeless, an address with which they can demonstrate a connection. A prisoner would not be able to register on the basis of a family home or other residence which they are prevented from returning to after release by virtue of a court order (“a prohibited address”); such prisoners would be able to give the address of the county or county borough in Wales in whose area the prohibited address is located. Prisoners would not be able to register to vote on the basis of the prison’s address.

Prisoners would be able to vote by post or by proxy only (there would be no polling stations in prisons). Prisoners from England or elsewhere in prisons in Wales would not be able to register to vote in Welsh local government elections using the address of the prison itself. They would be able to register to vote only if they could provide another address in Wales with which they could demonstrate a connection.

The Bill will enfranchise 16 and 17 year olds to vote in local government elections in Wales; young people in custody from Wales will be enfranchised on the same terms as adult prisoners. The Bill will also provide for 14 and 15 year olds to be registered as “attainers” in readiness for them becoming voters at 16. Any 14 and 15 year olds in custody serving a sentence of less than four years will also be registered as “attainers”.

¹ References to “prisoners” include “young people in custody” unless indicated otherwise.

The Bill will enfranchise foreign citizens who are legally resident in Wales; any prisoners who meet these criteria would be enfranchised.

If prisoners decide to exercise their right to vote, they will need access to candidates, election literature and Welsh media in order to identify the issues and to make informed choices. Candidates will also want to have access to the new category of voters. In line with the recommendations of the Equality, Local Government and Communities Committee, the Welsh Government will seek to reach agreement with the UK Government to enable prisoners from Wales across the prison estate to access relevant information and minimise possible barriers to registering and casting their vote.

Amendment background

Whilst the parts of the Local Government and Elections (Wales) Bill have been in development for six years the elements in relation to elections were not fully devolved to Welsh Ministers until April 2018, through the Wales Act 2017. In anticipation of this, the Welsh Government consulted on electoral reform in the summer of 2017. The response to the question on the enfranchisement of prisoners was positive with 50% of respondents supporting the proposal compared 48% opposing with 2% not expressing a view. Respondents cited the human rights and citizenship of prisoners, alongside the rehabilitation benefits of enfranchisement.

On the introduction of the Senedd and Elections (Wales) Bill in January 2019 the Llywydd asked the Equalities and Local Government Committee to undertake an inquiry in to prisoner voting. It would have been inappropriate to include these provisions at introduction ahead of the Committee's report and recommendations being published.

The Committee reported in June 2019 recommending the enfranchisement of prisoners from Wales serving sentences of less than four years and for 16-17 year olds being held in custody to be enfranchised on the same terms. These were supported by a number of recommendations supporting the process such as postal and proxy voting for prisoners.

The Welsh Government accepted the Committee's recommendations that prisoners and young people in custody from Wales serving sentences of less than four years should be enfranchised.