



Llywodraeth Cymru
Welsh Government

Welsh Government Integrated Impact Assessment Summary

Title of proposal:

The draft Senedd Cymru (Disqualification) Order 2020

Department:

Office of the First Minister

Cabinet Secretary/Minister responsible:

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First Minister of Wales*

Start Date:

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What action is the Welsh Government considering and why?

The draft Senedd Cymru (Disqualification) Order 2020

Section 16 of the Government of Wales Act 2006 lists persons, or classes of persons who are disqualified from being a Member of the Senedd. Schedule 1A to that Act lists categories of persons and office holders who are disqualified both from being a Member of the Senedd, and a candidate to become a Member of the Senedd. This draft Order should be read with those provisions.

In addition to those offices listed in section 16 and Schedule 1A, the Government of Wales Act 2006 provides for an Order in Council (“Disqualification Order”) to designate further offices and employments, the holders of which would be disqualified from becoming Members of the Senedd (but not from being a candidate to become a Member of the Senedd).

Prior to each Senedd general election a new Disqualification Order is made which revokes the previous Order and sets out an updated list of disqualifying offices.

The draft Senedd Cymru (Disqualification) Order 2020 would revoke and replace the National Assembly for Wales (Disqualification) Order 2015 with effect from an election at which the poll is held on or after 5 April 2021.

The holders of offices mentioned in the Senedd Cymru (Disqualification) Order 2020 can stand as a candidate, but could not take the oath to become a Member of the Senedd without first relinquishing their office.

Background:

While the Welsh Government believes that disqualification from membership of the Senedd should be restricted to as few citizens as possible, we recognise that political activity is inappropriate for the holders of certain offices. In particular, there is a need to protect certain public offices from political bias, and to ensure that the independence of the electoral process is upheld.

In 2014 the Senedd’s Constitutional and Legislative Affairs (CLA) Committee carried out an inquiry into the rules pertaining to disqualification from membership of the Senedd¹. This included 21 recommendations and proposed an overhaul of the legislative framework surrounding disqualifications from membership of the Senedd.

The Welsh Government agreed with the overall thrust of the CLA Committee report. The criteria for determining which offices were to be included in the National Assembly for Wales (Disqualification) Order 2015 were based on the principles set out in the CLA Committee’s report with some additional considerations by the Welsh Government. This same criteria have continued to be used for the draft Senedd Cymru (Disqualification) Order 2020 which will revoke and replace the current Order.

Criteria for determining offices and membership of bodies for inclusion in the draft Senedd Cymru (Disqualification) Order 2020:

General principles set out in recommendation 1 of the CLA committee’s report:

- Principle 1: Promoting democratic participation and the right to stand as a member of the Senedd are paramount.

Principle 2: Disqualification from membership of Senedd Cymru should be restricted to as few

¹ [Constitutional and Legislative Affairs Committee Inquiry into the Disqualification from Membership of the National Assembly for Wales July 2014](#)

citizens as possible.

Principle 3: Political activity is inappropriate for some citizens in order to:

- i. protect the independence of the electoral process;
- ii. prevent conflicts of interest arising on election; and
- iii. protect certain public offices from political bias.

Principle 4: The following citizens should be affected by a disqualification order:

- i. those whose role involves an over-riding requirement for impartiality, including those whose responsibilities include the electoral process itself;
- ii. those who hold any public office which carries with it a significant financial benefit from the Welsh Government;
- iii. those who hold public office and in that role provide formal advice to the Welsh Government;
- iv. those who hold any public office which is subject to scrutiny by the Senedd.

Principle 5: Where disqualifications are necessary they must be:

- i. in line with these principles;
 - ii. clear and unambiguous;
 - iii. proportionate.
- The offices described in recommendation 12 of the CLA Committee Report should be disqualifying offices, and should be included in the Disqualification Order unless they are already disqualifying offices under section 16 of the Government of Wales Act 2006.
 - Members of judicial tribunals should be disqualified.
 - Normally, persons appointed by Welsh Ministers should be disqualified, but there may be instances where such persons should not be disqualified (in which case consideration of the five principles referred to above will be important).
 - Public staff as described in recommendation 13 of the CLA Committee Report (e.g. staff of National Park, Police, Fire and Rescue Authorities, staff of Welsh Government Sponsored Bodies) should not be disqualified – the Welsh Government believes it can be safely assumed such staff would give up their employment if elected, as continuing with such employment at the same time as discharging Member of the Senedd responsibilities would make impossible demands on the individual.

Conclusion

1. How have people most likely to be affected by the proposal been involved in developing it?

The Welsh Government's response to the CLA Committee's report made a commitment to consult on the National Assembly for Wales (Disqualification) Order 2015 and by consulting on the draft Senedd Cymru (Disqualification) Order 2020 we have continued to honour that commitment.

The draft Senedd Cymru (Disqualification) Order 2020 is technical in nature and specific in its application to the people who occupy the designated offices. As part of the consultation process officials contacted directly, via email, all those who held a disqualifying office on the day the consultation was published to raise awareness of the consultation and allow for the maximum amount of time to respond.

Arrangements were put in place to ensure responses submitted by post were received during the COVID-19 pandemic.

The draft Order and consultation documents were made available in Welsh and English in order for the consultation to be conducted bilingually.

In order to publicise the consultation more widely a Written Statement was issued to coincide with the consultation's publication.

All organisations that were added to the draft Order post consultation were emailed directly to inform them that the offices relevant to their organisation were to be included in the draft Order.

2. What are the most significant impacts, positive and negative?

No impacts have been identified on the people, culture and Welsh language, economy and environment of Wales as a result of the draft Senedd Cymru (Disqualification) Order 2020. No costs have been identified with this legislation.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. Due to the specific nature of the Order it is not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with the Senedd Cymru (Disqualification) Order 2020.

3. In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals; and/or,
- avoid, reduce or mitigate any negative impacts?

N/A

4. How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

Prior to each Senedd general election a new Disqualification Order is made which revokes the previous Order and sets out an updated list of disqualifying offices. Before the next Senedd general election all offices disqualified by the Senedd Cymru (Disqualification) Order 2020 will be reviewed and a new disqualification Order will be produced to reflect any changes required.