



Llywodraeth Cymru
Welsh Government

Senedd and Elections (Wales) Act 2020

Guidance on the legislative drafting implications of Part 2



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Introduction

Part 2 of the Senedd and Elections (Wales) Act 2020 (SEWA 2020) renames the National Assembly for Wales, Acts of the Assembly and various bodies and offices relating to the Assembly. These changes took effect on 6 May 2020. This note contains guidance on the implications of the changes for the drafting of Bills and subordinate legislation.

Summary of changes to names made by SEWA 2020

Part 2 of SEWA 2020 makes the following changes.

- The name of the legislature is changed from “National Assembly for Wales or Cynulliad Cenedlaethol Cymru” to “Senedd Cymru or the Welsh Parliament”.
- “Acts of the National Assembly for Wales” (“*Deddfau Cynulliad Cenedlaethol Cymru*”) are renamed “Acts of Senedd Cymru” (“*Deddfau Senedd Cymru*”).
- The members of the legislature are given the formal title “Members of the Senedd” (“*Aelodau o’r Senedd*”).
- The “Clerk of the Assembly” (“*Clerc y Cynulliad*”) is renamed the “Clerk of the Senedd” (“*Clerc y Senedd*”).
- The “National Assembly for Wales Commission” (“*Comisiwn Cynulliad Cenedlaethol Cymru*”) is renamed the “Senedd Commission” (“*Comisiwn y Senedd*”).
- The “National Assembly for Wales Commissioner for Standards” (“*Comisiynydd Safonau Cynulliad Cenedlaethol Cymru*”) is renamed the “Senedd Commissioner for Standards” (“*Comisiynydd Safonau y Senedd*”).
- The “National Assembly for Wales Remuneration Board” (“*Bwrdd Taliadau Cynulliad Cenedlaethol Cymru*”) is renamed the “Independent Remuneration Board of the Senedd” (“*Bwrdd Taliadau Annibynnol y Senedd*”).

These changes are made by amending the text of the legislation that created the various bodies and offices, in particular the Government of Wales Act 2006 (GoWA 2006). The relevant provisions are identified in the Annex to this document.

Paragraph 5 of Schedule 1 to SEWA 2020 also amends Schedule 1 to the Legislation (Wales) Act 2019 (LWA 2019) to insert generally-applicable definitions of:

- “Senedd Cymru” (the term used in both language versions of the Schedule)
- “Act of Senedd Cymru” (“*Deddf gan Senedd Cymru*”)
- “Member of the Senedd” (“*Aelod o’r Senedd*”)
- “Senedd Commission” (“*Comisiwn y Senedd*”)

These definitions operate alongside the provisions in section 150A of GoWA 2006, as amended by paragraph 2(7) of Schedule 1 to SEWA 2020. Section 150A(2) provides that references to Senedd Cymru, Acts of Senedd Cymru and the Senedd Commission by their old names include the new names given by Part 2 of the SEWA 2020¹. Section 150A(3) provides that references to them by their new names include the previous names. (See below for discussion and examples.)

¹ This is referred to in the heading of the section as a “translation” from one term to another, which is not to be confused with translation between languages.

How should legislation refer to the legislature after its name changes?

Welsh Government drafting policy is to use the name “Senedd Cymru” in both the Welsh and English language texts of legislation, and **not** to use the name “Welsh Parliament” in the English language text. For example, a provision for a statutory instrument to be subject to negative procedure will state in the English language text that the instrument is “subject to annulment in pursuance of a resolution of Senedd Cymru”. See below for the application of this policy to amendments to UK legislation and existing Welsh legislation.

In the past, legislation has sometimes used shortened versions of the name of the National Assembly for Wales in order to make provisions easier to read. For example, a provision might use the full name the first time that it mentions the institution, and then use “the Assembly” or “the National Assembly” in later references; or an Act or instrument might use the term “the Assembly” and define it to mean the National Assembly for Wales.

Legislation that refers to the legislature often contains only a very small number of references to it (e.g. an Act might only mention the legislature in the section about procedures for subordinate legislation). In those cases, it will generally be simpler to use the full title “Senedd Cymru” in each reference. However, it may be appropriate to shorten this to “the Senedd” in an enactment that contains more references to the institution, and using “the Senedd” will be consistent with how the legislature generally refers to itself. If you adopt this approach, you will need to make clear that “the Senedd” means Senedd Cymru. You may do that by including a definition (as in section 1 of GoWA 2006 and section 41 of SEWA 2020) or by using the full name the first time the institution is mentioned in a section or regulation (and the shortened form for later references in the same section or regulation).

In addition, legislation has sometimes used defined terms that contain shorthand references to the National Assembly for Wales, rather than its full title, such as “Assembly procedure”. This approach may still be helpful. Following the name change, a label of this kind could contain a shorthand reference to the Senedd, so the phrase “Senedd procedure” could be used.

Senedd Cymru is the same institution that was established by section 1 of GoWA 2006 and was previously known as the National Assembly for Wales. So a reference to “Senedd Cymru” will include the National Assembly for Wales where that is relevant, unless the context requires otherwise (see section 150A(3) of GoWA 2006 and the definition of “Senedd Cymru” in Schedule 1 to LWA 2019).

How should legislation refer to members of the legislature after the change of name?

As originally enacted, Part 1 of GoWA 2006 made provision about membership of the National Assembly for Wales and referred to its members as “Assembly members”, but it did not give members a statutory title to be used in other legislation.

Section 4 of SEWA 2020 inserts a new section 1(2A) into GoWA 2006, which provides that members are to be known as “Members of the Senedd or Aelodau o’r Senedd”. Accordingly, on 6 May 2020 members of the legislature will acquire those statutory titles, which should always be used when referring to them.

Note that the statutory title in English is “Member of the Senedd” and not “Member of Senedd Cymru” or “Member of the Welsh Parliament”. Similarly, the title in Welsh is “Aelod o’r Senedd” and not “Aelod o Senedd Cymru”. In the new titles, “Member” and “Aelod” always begin with capital letters.

How should legislation refer to devolved Acts and Measures after the change of name?

Following the name change, a general reference to devolved Acts should refer to “Acts of Senedd Cymru” in English and “Deddfau Senedd Cymru” in Welsh. In the singular, a general reference should be to “an Act of Senedd Cymru” or “Deddf gan Senedd Cymru”. These references will include Acts of the National Assembly for Wales passed before the name of the legislature changed, unless the context requires otherwise (see section 150A of GoWA 2006 and the definition of “Act of Senedd Cymru” in Schedule 1 to LWA 2019).

For example, if an Act provides that regulations are subject to affirmative Senedd procedure if they amend “an Act of Senedd Cymru,” that provision will apply equally to regulations which amend an Act passed by the National Assembly for Wales before its name was changed.

In the past, legislation sometimes referred to “Assembly Acts” rather than using the full title “Acts of the National Assembly for Wales” (and Schedule 1 to LWA 2019 endorsed the use of “Assembly Act” by including a general definition of that phrase). Following the name change, there should be less need to describe Acts using a shortened version of their name, because “Acts of Senedd Cymru” is already significantly shorter than the previous name.

A specific Act can only be either an Act of Senedd Cymru or an Act of the National Assembly for Wales. (Part 2 of SEWA 2020 does not convert individual Acts that were passed by the Assembly into Acts of Senedd Cymru.) In any event, a reference to a specific Act will normally use the title of the Act, which will be unaffected by the changes of terminology in Part 2 of SEWA 2020.

Measures of the National Assembly for Wales, which were all enacted between 2008 and 2011, are not renamed by Part 2 of SEWA 2020. A general reference to Measures should therefore still refer to “Assembly Measures” or “Mesurau Cynulliad”. That shorthand name is defined for general purposes in Schedule 1 to LWA 2019.

If you need to refer to all of the primary legislation passed by the devolved legislature (for example, if imposing affirmative procedure for regulations which amend primary legislation), you will need to refer to both Acts of Senedd Cymru and Assembly Measures.

How does the change of name affect references to the Assembly etc in existing legislation?

Where existing legislation (or any other document) refers to the National Assembly for Wales, Acts of the Assembly or the Assembly Commission, from 6 May 2020 those references are to be read as including references to Senedd Cymru, Acts of Senedd Cymru and the Senedd Commission. This is the effect of section 150A of GoWA 2006, which applies to all enactments, whether made by devolved or UK institutions, including GoWA 2006 itself.

For example, a provision about the Assembly procedure for statutory instruments will become a provision about the corresponding Senedd procedure in relation to instruments made after the name change; and a reference in legislation to a person exercising functions under an Act of the National Assembly for Wales will include a person exercising functions under an Act of Senedd Cymru.

Which names should be used in amendments and references to existing legislation?

Where a new piece of legislation refers to or describes provisions in existing legislation which relate to the National Assembly for Wales, and those provisions are also relevant to Senedd Cymru, the reference or description should refer to Senedd Cymru. For example, section 76 of the Public Services Ombudsman (Wales) Act 2019 provides that the Assembly may delegate certain functions it has under that Act. From 6 May 2020, if another enactment were to amend section 76 and give a parenthetical description of its subject-matter, the description would need to refer to functions of Senedd Cymru rather than functions of the Assembly.

However, references to the titles of existing enactments, or quotations of the text of existing enactments, should use the words that actually appear in the enactments, even if they use the old names that relate to the Assembly.

If you are amending an enactment which contains references relating to the Assembly, any new material you are inserting into the enactment will need to use the new names relating to Senedd Cymru. For example, if an existing Act contains requirements for documents to be laid before the National Assembly for Wales, any new provisions about laying documents that are inserted into the Act should provide for the documents to be laid before Senedd Cymru.

When you are amending an enactment to insert new material that refers to Senedd Cymru, it is not necessary to update existing references to the Assembly in that enactment so that they use the new names. However, it may be appropriate to do so if it helps with the drafting of the amendments, or if the amended text would otherwise become confusing or difficult to read.

These policies apply whether you are amending Welsh legislation or UK legislation (including Acts of the UK Parliament and subordinate legislation made by Ministers of the Crown).

When considering issues of this kind, remember that references to the National Assembly for Wales in provisions enacted or amended before May 2007 meant the Assembly established by the Government of Wales Act 1998 (GoWA 1998), which was a different entity from the Assembly established by GoWA 2006. Most of those references now mean the Welsh Ministers rather than the devolved legislature: see paragraphs 30-32 of Schedule 11 to GoWA 2006. Those references are therefore unaffected by SEWA 2020 (which does not amend Schedule 11 to GoWA 2006).

Will it ever be appropriate to refer to the National Assembly for Wales?

Now that the National Assembly for Wales has been renamed, legislation should not refer to it by that name and should instead use Senedd Cymru.

There may still be cases where it is necessary to refer to the National Assembly for Wales that was established by GoWA 1998 (and abolished by GoWA 2006), and that Assembly should still be referred to as the National Assembly for Wales. For example, it is occasionally necessary to refer in general terms to subordinate legislation made by that Assembly or by the Welsh Ministers. And footnotes to statutory instruments may need to explain that the powers under which they are made were transferred from a Minister of the Crown to the National Assembly for Wales established by GoWA 1998 and then to the Welsh Ministers.

Should statutory instruments include footnotes to explain the change of name?

Where a statutory instrument is subject to affirmative procedure, the preamble to the instrument will need to record that a draft of the instrument has been laid before, and approved by resolution of, Senedd Cymru.

If the instrument is to be made under an Act or Measure that was enacted before the change of name, the procedural provisions in the Act or Measure will refer to the National Assembly for Wales. However, they will now have effect as if they referred to Senedd Cymru by virtue of the gloss in section 150A(2) of GoWA 2006. The reference to the procedural provisions in the preamble to the instrument should include a footnote explaining how they are affected by section 150A(2). For an instrument subject to the standard “draft affirmative” procedure, the following wording is suggested:

The reference in [section x] to the National Assembly for Wales now has effect as a reference to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

It may also be appropriate to include a footnote of this kind where a provision in the body of a statutory instrument refers to Senedd Cymru and mentions a provision that contains a reference to the National Assembly for Wales that is affected by section 150A(2). If there are multiple references of this kind, a single footnote can deal with the matter generally the first time that Senedd Cymru is mentioned. For example:

References in [the X Act] to the National Assembly for Wales now have effect as references to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

Where can I get more help?

If you come across a case where the glosses in section 150A of GoWA 2006 do not seem to do everything that is required to reflect the changes of name under SEWA 2020, please let the Legal Services Constitution Team know.

If you think that Part 2 of SEWA 2020 gives rise to a drafting issue that is not covered in this document, or that the guidance in this document is not appropriate for the particular situation you are dealing with, please get in touch with the Office of the Legislative Counsel.

Annex – Summary of name changes

Section 2 of SEWA 2020 amends section 1 of GoWA 2006 so that the reference to the “National Assembly for Wales or Cynulliad Cenedlaethol Cymru” is replaced by “Senedd Cymru or the Welsh Parliament”. Welsh Government policy, however, is to refer to the legislature as “Senedd Cymru” (or, where appropriate, the “Senedd”) in both the Welsh and English languages. This is reflected in the definition adopted in Schedule 1 to LWA 2019 (as amended by paragraph 5(7) of Schedule 1 to SEWA 2020).

Other name changes are as follows:

English		Welsh		Naming enactment	Amending provision in SEWA 2020
From	To	From	To		
Acts of the National Assembly for Wales	Acts of Senedd Cymru	Deddfau Cynulliad Cendlaethol Cymru	Deddfau Senedd Cymru	Plural forms in section 107 of GoWA 2006	Section 3
Act of the National Assembly for Wales	Act of Senedd Cymru	Deddf (gan) Cynulliad Cendlaethol Cymru	Deddf gan Senedd Cymru	Singular forms in Schedule 1 to LWA 2019	Schedule 1 para 5(7)
Member(s) of the National Assembly for Wales	Member(s) of the Senedd	Aelod(au) Cynulliad Cendlaethol Cymru	Aelod(au) o'r Senedd	New names in section 1(2A) of GoWA 2006 Also Schedule 1 to LWA 2019 No statutory title in GoWA 2006 as enacted	Section 4 Schedule 1 para 5(7)
Clerk of the Assembly	Clerk of the Senedd	Clerc y Cynulliad	Clerc y Senedd	Section 26(2) of GoWA 2006	Section 5
National Assembly for Wales Commission	Senedd Commission	Comisiwn Cynulliad Cendlaethol Cymru	Comisiwn y Senedd	Section 27(1) of GoWA 2006 Also Schedule 1 to LWA 2019	Section 6 Schedule 1 para 5(7)
National Assembly for Wales Commissioner for Standards	Senedd Commissioner for Standards	Comisiynydd Safonau Cynulliad Cenedlaethol Cymru	Comisiynydd Safonau y Senedd	Section 1(1) of the National Assembly for Wales Commissioner for Standards Measure 2009	Section 7
National Assembly for Wales Remuneration Board	Independent Remuneration Board of the Senedd	Bwrdd Taliadau Cynulliad Cenedlaethol Cymru	Bwrdd Taliadau Annibynnol y Senedd	Section 1(1) of the National Assembly for Wales (Remuneration) Measure 2010	Section 8