

Senedd Cymru (Electoral Candidate Lists) Bill

Bill Summary

April 2024



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Contents

1. Introduction	1
2. The Bill at a glance.....	2
3. Summary of provisions	3
Section 1 - Proportion and placement of women on lists of candidates to be Members of the Senedd.....	3
Section 2 - Review of operation and effect of this Act etc.	6
Section 3 - Power to make consequential, transitional etc. provision	6
Section 4 - Coming into force.....	6
Section 5 - Short title	6

1. Introduction

The Senedd Cymru (Electoral Candidate Lists) Bill (the “Bill”) was introduced on 11 March 2024.

Jane Hutt MS, the Trefnydd and Chief Whip, is the Member in Charge of the Bill.

The Bill’s **Explanatory Memorandum** states that its overall purpose is to make the Senedd:

[..]a more effective legislature for, and on behalf of, the people of Wales. To achieve this, the Bill aims to ensure the Senedd is broadly representative of the gender make-up of the population

A **written statement** by the Member in Charge was published on 11 March 2024.

The Bill has been introduced as part of the Welsh Government’s wider programme of electoral reform, which includes **the Senedd Cymru (Members and Elections) Bill** and **the Elections and Elected Bodies (Wales) Bill**.

The provisions in the Bill interact with Part 2 of the **Senedd Cymru (Members and Elections) Bill**, as introduced, which outlines the proposed voting system for Senedd general elections.

The Bill is currently making its way through the **Senedd’s legislative process**. The Member in Charge appeared before the Reform Bill Committee on **13 March 2024**. The Committee held a **public consultation** on the Bill and will be holding further oral evidence sessions over the coming weeks.

The Finance Committee will consider the financial implications of the Bill, and the **Legislation, Justice and Constitution Committee** will look at the quality and legality of the legislation.

How to use this Bill Summary

This document isn’t an exhaustive summary of every aspect of the Bill. It’s designed to be used electronically and signpost to further detail.

In the summary of provisions section, the section number text (e.g., Section 1) links to the relevant section of the Bill. The text that follows contains a link to the explanatory notes where further detail can be found.

2. The Bill at a glance

The Bill has 5 sections:

- proportion and placement of women on lists of candidates to be Members of the Senedd;
- review of operation and effect of this Act etc.;
- power to make consequential, transitional etc. provision;
- coming into force; and
- short title.

Subordinate Legislation

Section 1 of the Bill does not provide new powers for the Welsh Ministers to make subordinate legislation but does extend an existing power under section 13 of the Government of Wales Act 2006 to permit or require provision to be made in an Order under that section.

Section 3 of the Bill confers a power on the Welsh Ministers by regulations to make such supplementary, incidental, consequential, transitional, transitory or saving provision they consider appropriate in order to give full effect to any provision of the Bill or any provision made under the Bill.

Section 4 (2)-(3) confers a power on the Welsh Ministers to bring sections 1 and 2 of the Bill into force on a date of their choosing.

The **Explanatory Memorandum** includes tables setting out the subordinate legislation powers in the Bill and the **scrutiny procedures** they will be subject to by the Senedd. The **Statement of Policy Intent** provides further details on the subordinate legislation that can be made under the Bill.

The Explanatory Memorandum also includes a Regulatory Impact Assessment (RIA) which provides a summary of the estimated costs and benefits of the Bill.

3. Summary of provisions

Section 1 - Proportion and placement of women on lists of candidates to be Members of the Senedd

Section 1 of the Bill inserts new sections 7A-7D into the Government of Wales Act 2006 (GoWA) to provide for **the proportion and placement of women on lists of candidates for Senedd elections**.

New Section 7A - At least half of candidates on a list submitted under section 7 must be women

New Section 7A of GoWA introduces **two types of quota rules** that would apply to candidate lists in each Senedd constituency:

- a **minimum threshold** of women candidates (at least 50%); and
- **vertical placement criteria** on the placement of women on lists.

New Section 7A(1) applies these rules to registered political parties who submit lists of candidates that include two or more candidates for a Senedd constituency (i.e. it will not apply to individual (independent) candidates or a list with only one candidate).

New Section 7A(2)-(3) requires that at least half of the candidates on an electoral list submitted by a registered political party in a Senedd constituency must be women. This mechanism is known as a '**minimum threshold**'. When a party has an even number of candidates on a list, at least half must be women, and when a party has an odd number of candidates on a list, the majority must be women.

New section 7A(4) sets out the **vertical placement criteria** political parties must follow when placing candidates on an electoral list. It proposes that a candidate on a list who is not a woman must (unless that candidate is last on the list) be immediately followed by a woman. Unlike the '**zipping**' approach this system would allow parties to place more than one woman in succession on a list.

New Section 7B - First or only candidate on at least half of the lists submitted by a party must be a woman

New Section 7B requires that the first or only candidate on at least half of the lists submitted in all constituencies by a party **must be a woman**. This mechanism is known as the '**horizontal placement criteria**'.

New Section 7B(1) applies these rules to registered political parties who submit lists of candidates for two or more Senedd constituencies. If a party stands candidates in only one constituency, this rule would not apply.

New Section 7B(2)-(3) requires that at least half of the candidates in first position on lists submitted by a registered political party must be women. When a party stands in an even number of constituencies, at least half of the candidates in first position must be women, and when a party stands in an odd number of constituencies, the majority of the candidates in first position must be women.

New Section 7C - The national nominations compliance officer and enforcement of section 7B

New section 7C(1) requires the Welsh Ministers to make provision to **create a National Nominations Compliance Officer** (NNCO) in an order made under section 13 of GoWA (known as the Conduct Order). The NNCO would be responsible for enforcing the horizontal placement criteria.

The Conduct Order

Section 13 of the Government of Wales Act 2006 provides a broad power for the Welsh Ministers to make provision about Senedd elections.

This power has previously been used to make the **National Assembly for Wales (Representation of the People) Order 2007**. The Order has been reviewed and amended ahead of each Senedd election but the Welsh Government has **committed** to consolidating and remaking a new bilingual version of the Order in advance of the next Senedd election.

The Order contains much of the detail about the conduct of Senedd elections.

Much of the operational detail relating to the practical steps that must or may be taken by the NNCO will be set out in the Conduct Order, rather than on the face of the Bill. However, new section 7C(2)-(4) sets out what the Conduct Order may make provision for:

- The functions of the NNCO (**section 7C(2)**).

- What steps may or must be taken where the lists of candidates are not compliant with the horizontal rules (**section 7C(3)(a)**):
 - including how the NNCO may or must determine the list or lists that would be changed (**section 7C(4)(a)**).
- The functions of a Constituency Returning Officer (CRO) to ensure compliance with the horizontal rules (**section 7C(3)(b)**):
 - including requiring or enabling the CRO to reorder a list selected by the NNCO if they have determined that a party's lists are not compliant with the horizontal placement (i.e. they do not have at least 50% of women in first position on their lists); and
 - if the only candidate on the list selected to be reordered is not a woman, that the candidate would no longer be nominated and that party would not have a candidate in that constituency(**section 7C(4)(b)(ii)**).

Particular provision relating to sections 7A and 7B that may or must be made in an order under section 13

New section 7D(1) makes provision about **what may be made in the Conduct Order** in relation to new sections 7A and 7B of GoWA. It states that provision can be made about:

- The effect of the removal of a candidate from a list (for example, where a candidate has died or withdrawn after submission) on compliance with sections 7A and 7B. This provision may allow for a list to be treated as compliant if a candidate is removed from a list after submission.
- The inspection of statements made by candidates under section 7D(2) about whether they are or are not a woman.

Some restricted groups of people (such as other candidates standing in the same constituency and their agents) are permitted to inspect nomination papers during the pre-election period. **New section 7D(1)(b)** would allow the Welsh Ministers to add the gender statement (required by section 7D(2)) to the information that can be inspected.

New section 7D(2) requires that provision must be made in the Conduct Order that, as part of the process by which a person is nominated by a registered political party as a candidate, they must state whether they are either a woman or not a woman.

Section 2 - Review of operation and effect of this Act etc.

Section 2 requires the Presiding Officer to **table a motion to establish a Senedd committee to review the operation and effect of sections 7A to 7D of GoWA** (as inserted by section 1). This motion would need to be tabled as soon as possible, and no later than six months, after the first meeting of the Senedd following the first Senedd general election held after section 1 of the Bill comes into force.

If a committee were to be established, it would be required to complete a report on the review no later than 12 months after the first meeting of the Senedd following the first general election held after section 1 comes into force.

If this committee were to lay a report before the Senedd, **section 2(5)** requires the Welsh Ministers to lay before the Senedd a statement setting out their response to the report.

Section 3 - Power to make consequential, transitional etc. provision

General Provisions

Section 3 provides that the Welsh Ministers may by regulations make such **supplementary, incidental, consequential, transitional, transitory or saving provision** they consider appropriate in order to give full effect to any provision of the Bill or any provision made under the Bill. This power can be used to amend, repeal, revoke or modify GoWA or any other enactment, whenever passed or made.

Section 4 - Coming into force

Section 4 provides for different sections of the Bill to **come into force** in a particular order once it receives Royal Assent. Sections 3, 4 and 5 would come into force the day after the Bill receives Royal Assent, while the other sections would come into force on a day appointed by the Welsh Ministers in a statutory instrument.

Section 5 - Short title

Section 5 provides that the **short title of the Bill** if enacted would be the Senedd Cymru (Electoral Candidate Lists) Act 2024.