

Explanatory Memorandum to the Representation of the People (Electoral Registers Publication Date) (Wales) Regulations 2023

This Explanatory Memorandum has been prepared by the Covid Recovery and Local Government Group and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Representation of the People (Electoral Registers Publication Date) (Wales) Regulations 2023.

Rebecca Evans MS
Minister for Finance and Local Government
14 November 2023

PART 1

1. Description

These regulations set the final date by which an Electoral Registration Officer (ERO) in Wales must publish the revised local government electoral register for their area following the 2024 annual canvass, in accordance with section 13(1)(a) of the Representation of the People Act 1983 (“**the 1983 Act**”).

The regulations move that date from 1 December 2024 to 1 February 2025. This effectively allows EROs in Wales an additional two months to publish their revised local government electoral registers to take account of the requirement for EROs to review the eligibility of EU citizens registered in Wales to vote in Police and Crime Commissioner elections.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

EROs have a duty under section 9A(1) of the 1983 Act, to ensure that, “so far as is reasonably practicable, persons who are entitled to be registered in a register (and no others) are registered in it,” (i.e. a duty to maintain complete and accurate electoral registers).

Section 13(1)(a) of the 1983 Act places a duty on EROs to publish a revised version of their electoral register after the end of the annual canvas for that year and by no later than 1 December in each year, or by a later date which may be prescribed by regulations. The only exception, under section 13(1A) of the 1983 Act, is that, should an election be held between 1 July and 1 December in the ERO’s area, the final publication date for the revised electoral register automatically becomes 1 February of the following year.

These regulations are being made under the draft affirmative resolution procedure.

4. Purpose and intended effect of the legislation

The current canvass gathers information on potential additions to, changes to, and deletions from, the electoral register.

The annual canvass period runs from 1 July to 1 December and is driven by a requirement for EROs to publish a revised electoral register for their area by 1 December (subject to the exception in section 13(1A) of the 1983 Act).

The UK Government has laid before Parliament a statutory instrument containing regulations which enable the implementation of the changes to the voting rights of citizens of member States of the European Union (EU) that are made by

section 15 and schedule 8 of the Elections Act 2022. These franchise changes apply only to certain reserved elections. Part 2 of that instrument provides for review processes in relation to both the registration of EU electors in England, and the eligibility of EU citizens registered in Wales to vote in PCC elections, enabling and requiring EROs to review the eligibility of already-registered EU citizens under the new criteria within the time period between the commencement of the franchise change and 31 January 2025.

Related to this, Part 3 of that instrument includes provisions to enable EROs to delay the publication of the revised local government registers in England and the parliamentary registers in England and Wales from 1 December 2024 to 1 February 2025. The purpose of this is to provide EROs with a longer period of time to complete their canvass in addition to the required EU citizen review process.

The provisions of Part 3 do not provide the necessary flexibility for EROs in Wales in relation to the publication of the local government registers, so a similar change also needs to be made to the final publication date of the local government registers in Wales which is a devolved matter. The Representation of the People (Electoral Registers Publication Date) (Wales) Regulations 2023 will provide this flexibility for EROs in Wales by extending the final publication date of the 2024 revised local government electoral registers. Regulation 2 of the Representation of the People (Electoral Registers Publication Date) (Wales) Regulations 2023 provides that the final date by which EROs in Wales must publish the 2024 revised local government registers is 1 February 2025.

5. Consultation

The Electoral Commission were consulted with in line with Sections 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000, which require the Welsh Ministers to consult with the Electoral Commission before making regulations to which section 201(2) of the 1983 Act apply. The consultation which took place between the 7th August and the 22 September was also shared with interested stakeholders including the Association of Electoral Administrators, Returning Officers, Electoral Registration Officers, Heads of Democratic Services, electoral administrators and the Welsh Local Government Association. Five responses were received to the consultation. The responses either offered no comment or stated agreement that the legislation was necessary to ensure consistency in the approach to the publication of electoral registers.

6. Regulatory Impact Assessment (RIA)

These Regulations update subordinate legislation but do not alter the policy or its impact in any significant way. As such, no RIA has been completed. This is in line with the policy set out in the Welsh Ministers' RIA Code for subordinate legislation. EROs will be required to undertake the same activities as they would normally, but they will be given an additional two months to complete them if necessary. As such we do not expect there to be any cost impact

associated with this legislation.

While electoral registers are updated and published on a monthly basis, these monthly updates are not usually published in the two months before the publication of the final revised electoral register. As this would also be true where an election is held in an ERO's area between 1 July and 1 December (see above) we do not consider this change to have any impact