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National Assembly for Wales election

Guidance for candidates and agents

Part 1 of 6 – Can you stand for election?

This document applies to the May 2016 National Assembly for Wales election. Our guidance and resources for other elections in the UK can be accessed from our website at:

<http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents>.

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Can you stand for election?

This section of the document contains our guidance on whether or not you can stand for election to the National Assembly for Wales, whether as a constituency candidate, as a party list candidate at the regional election, or as an individual candidate in the regional election.

In this document, we use 'you' to refer to all candidates standing at the National Assembly for Wales election. Where our guidance only applies to a particular type of candidate, this will be specifically stated.

We use 'must' when we refer to a specific requirement.

We use 'should' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

We have included relevant deadlines throughout this document, but you can also find a separate [election timetable](#) setting out all the key dates on our website.

We are here to help, so please contact the Electoral Commission if you have any questions.

See our [Overview document](#) for contact details.

This guidance has been developed based on the legislation as it currently stands and makes some assumptions about what further legislation will provide for, and so it may be subject to change.

We will update and re-publish the guidance as appropriate once the legislation is clear.

Qualifications for standing for election

1.1 To be able to stand as a constituency or regional candidate at the National Assembly for Wales you must, on the day you are nominated and on polling day, be:

- at least 18 years old, and
- a British citizen, an eligible [Commonwealth citizen](#) or a citizen of any other [member state of the European Union](#).

1.2 There is no requirement in law for you to be a registered elector in Wales.

Disqualifications

1.3 Apart from meeting the qualifications for standing for election, you must also not be disqualified from standing on the day of your nomination and on polling day.

Disqualifying offices

1.4 Certain post-holders are disqualified from becoming a Member of the National Assembly for Wales. These include:

- judges
- civil servants
- members of the regular armed forces
- members of a police force
- members of a legislature of any country or territory outside the Commonwealth (other than the Republic of Ireland)
- those who hold the office of Auditor General for Wales
- those who hold the office of Public Services Ombudsman for Wales
- those who hold the office of lord-lieutenant, lieutenant or high sheriff of any area in Wales (but only for any constituency or electoral region wholly or partly included in that area)

An **eligible** Commonwealth citizen is a Commonwealth citizen who either:

- does not need leave to enter or remain in the United Kingdom, or
- has indefinite leave to remain in the United Kingdom

Legislation is published by the National Archives.

You can access the [National Assembly for Wales \(Disqualification\) Order 2015 here](#).

The House of Commons Disqualification Act and the Government of Wales Act can be accessed on www.legislation.gov.uk.

However, the legislation on the website may not always reflect the legislation as it currently stands – for example, at the time of writing, there are outstanding changes to the House of Commons Disqualification Act 1975, which have not yet been reflected in the version on the website.

If you are in doubt, you should seek your own independent legal advice.

- those who hold the office of Commissioner or Investigating Commissioner, or a member of a decision-making committee of the Commission for Equality and Human Rights
- those who are employed as a member of the staff of the Assembly. Candidates who are directly employed by Assembly Members and not by the Assembly Commission are not disqualified from standing for election. However, employment relationships can be complex and we advise anyone who is unsure about whether they are disqualified to speak to the Assembly's HR department to confirm their employment arrangements and/or seek their own legal advice.
- those who hold an office that is listed in The National Assembly for Wales (Disqualification) Order 2015

1.5 This list is not comprehensive and detailed lists of disqualifications are set out in the Government of Wales Act 2006 (as amended), the House of Commons Disqualification Act 1975 (as amended) and the National Assembly for Wales (Disqualification) Order 2015.

Bankruptcy

1.6 Bankruptcy in itself is not a disqualification. If you have been adjudged bankrupt by a court in England, Wales or Northern Ireland, or are subject to an interim bankruptcy restrictions order, you are not disqualified on that basis, as long as you are not also currently subject to any of the particular bankruptcy disqualifications listed below:

- you are currently subject to a bankruptcy restrictions order or debt relief restrictions order made by a court in England, Wales or Northern Ireland, or
- your estate has been sequestrated by a court in Scotland and you have not been discharged

Imprisonment and court decisions

1.7 You are disqualified under the Representation of the People Act 1981 if you have been convicted of an offence, have been sentenced to be imprisoned or detained for more than a year and are detained anywhere in the UK, the Republic of Ireland, the Channel Islands or the Isle of Man, or are unlawfully at large.

1.8 The nomination of a person disqualified on this basis is void, and the Returning Officer will reject their nomination.

1.9 You are also disqualified under the Representation of the People Act 1983 (as amended), if you have been convicted or reported guilty of a corrupt or illegal electoral practice or of an offence relating to donations. The disqualification for an illegal practice begins from the date a person has been reported guilty by an election court or convicted and lasts for three years. The disqualification for a corrupt practice begins from the date a person has been reported guilty by an election court or convicted and lasts for five years.

Standing in more than one contest

1.10 You can be a candidate for both a constituency and a region, so long as the constituency is within the region. If you do this, you must stand for the same party in both contests, or be an independent in both contests. If you are elected at the constituency election, your name will be disregarded at the allocation of regional seats.

1.11 You cannot stand in more than one constituency or in more than one region.

MPs standing at the National Assembly for Wales election

1.12 Members of the House of Commons cannot be members of the Assembly. While they can stand as candidates at the Assembly election, if successful, an MP would have to resign their seat in the House of Commons within eight calendar days of being elected to the Assembly.

1.13 You may also be a candidate at both a UK Parliamentary and National Assembly for Wales election. In the scenario where you are returned as an Assembly member and are subsequently elected to the House of Commons you will be disqualified from being a member of the Assembly if you do not resign your seat in the House of Commons within eight calendar days of being elected as an MP

The full range of disqualifications is complex and if you are in any doubt about whether you are disqualified, you must do everything you can to check that you are not disqualified before submitting your nomination papers.

You must be sure that you are not disqualified as you will be asked to sign one of the required nomination papers to confirm that you are not disqualified.

It is a criminal offence to make a false statement on your nomination papers as to your qualification for being elected, so if you are in any doubt, you should contact your employer, consult the legislation or, if necessary, take your own independent legal advice.

The Returning Officer will not be able to confirm whether or not you are disqualified.