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Llywodraeth Cymru
Welsh Government

Kemi Badenoch MP
Minister of State
Department for Levelling Up, Housing and
Communities
2 Marsham Street
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1 October 2021

Dissolution and Calling of Parliament Bill

Dear Ms Badenoch,

Congratulations on taking up your new post as Minister for State in the Department for Levelling Up, Housing and Communities. We look forward to working with you on a wide range of issues.

Following on from our discussions with your predecessor at the Inter-Ministerial Group for Elections and Registration in June and having considered the joint paper which has been produced setting out the issues in relation to the Dissolution and Calling of Parliament Bill, we wanted to reaffirm our position.

The repealing of the Fixed-term Parliaments Act 2011 and the return of prerogative powers will allow the Prime Minister to 'request' a dissolution from the Sovereign at any time. There is risk that that a UK Parliamentary General Election could be called at the same time, or close to, scheduled national or local elections in Scotland, Wales and Northern Ireland.

We remain concerned that this could cause a number of problems for administrators and voters. Avoiding polls being held on the same day reflects recommendations of the Smith Commission; we want to avoid polls overshadowing each other, possible voter confusion or unnecessary pressure on electoral administrators which could undermine the effective delivery of the polls. The need to avoid a clash of polls has been underlined by the UK Elections Bill with its provisions seeking to create new requirements on ID and postal voting to apply in respect of reserved elections only.

Under the Scotland Act 1998 (SA 1998) and the Government of Wales Act 2006 (GOWA) if a UK Parliamentary General Election is called on the same day as an ordinary election to Senedd Cymru or Scottish Parliament, these scheduled elections need to be moved. This has had to happen on several occasions. We would like to see a commitment underpinned by provision on the face of the Bill that the Prime Minister would have discussions with

Welsh and Scottish Government and/or Senedd Cymru and Scottish Parliament before setting a UK Parliamentary General Election within three months of a scheduled election. We have included an annex to this letter which sets out some of the issues.

We appreciate that the timings on this Bill are tight, particularly as the Bill will be going through to 2nd reading in the House of Lords imminently. We look forward to discussing this at the next Inter-Ministerial group meeting.

We are copying this letter to The Rt Hon the Lord McFall of Alcluith, Lord Speaker, The Rt Hon Baroness Evans of Bowes Park, Leader of the House of Lords; Baroness Smith of Basildon, Shadow Leader of the House of Lords; and Lord Judge, Convenor of the Crossbench Peers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'George Adam', written in a cursive style.

GEORGE ADAM MSP
Scottish Government

A handwritten signature in blue ink, appearing to read 'Mick Antoniw', written in a cursive style with a horizontal line underneath.

MICK ANTONIW MS
Welsh Government

ANNEX

Background; Scotland and Wales– statutory prohibition on devolved elections being held on the same day as a UK General Election

1. Section 2(2A) of the Scotland Act 1998 (the “1998 Act”) provides that the poll at an ordinary general election to the Scottish Parliament shall not be held on the same date as the date of the poll at a UK parliamentary general election (other than an ‘early parliamentary general election’ in terms of the Fixed-Term Parliaments Act 2011). Section 3 of the Referendums (Scotland) Act 2020 contains a similar prohibition in relation to referendums held under that Act.

2. Section 3 (1A) of the Government of Wales Act 2006 (the “2006 Act”) as inserted by s.6(1) and (3) of the Wales Act 2017 provides that the poll at an ordinary general election to the Senedd is not to be held on the same date as the date of the poll at –

(a) a parliamentary general election (other than an early parliamentary general election).

Consequences of a change to polling day at short notice

3. A change of date, especially at a late stage, has significant implications for electoral administrators in relation to availability of premises and staff. Generally, commercial accommodation costs are the most vulnerable to a change in date, with a lower exposure for staffing costs in relation to a cancelled poll. Arranging venues for a new date at short notice is likely to involve a greater reliance on commercially hired venues, often at higher rates. Rearranging dates for schools used as polling places is disruptive to school timetabling and to pupils and may therefore require a greater use of commercially hired venues, at increased cost to the taxpayer.

4. A change in polling day made in the weeks leading up to the election will risk causing confusion, as much of the voter information already provided to voters will detail the previous polling date. For example, the Electoral Commission, Scotland outlined in its written evidence on the Scottish General Election (Coronavirus) Bill submitted on 16 November 2020, that *“for a May 2021 poll, the Commission would need confirmation of the day or days of polling by the end of this year in order to include this critical information in our information booklet for voters which will be sent to all households in March 2021.”*¹

Holding elections on multiple days

5. Section 2(2A) of the 1998 Act was inserted in 2016 following paragraph 24(4) of the Report of the Smith Commission for further devolution of powers to the Scottish Parliament 27 November 2014:

*“UK legislation will prevent the Scottish Parliament deciding that general elections should be held on the same day as general elections to the UK Parliament, European Parliament or local government elections in Scotland.”*²

6. Combining elections is considered undesirable as it has the potential to create confusion among the electorate, not least as there would be simultaneous overlapping election

¹ https://yourviews.parliament.scot/sppa/scottish-general-election-coronavirus-bill/consultation/view_respondent?uuld=810867096, at paragraph 20

² http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/28_11_14_smithcommission.pdf

campaigns and different electoral systems. As noted in the *report of the independent review of the Scottish Parliamentary and local government elections on 3 May 2007*:

*“greater responsibility is placed on voters when they must make decisions for two elections instead of one. They have the responsibility of understanding the messages from parties and candidates conducting campaigns for the Scottish Parliament – while also absorbing messages from candidates running for local councils. In situations such as the 3 May 2007 elections, they also had to understand the electoral systems used for each election...it is clear that some voters were confused by the combined elections using two electoral systems and two ballot paper marking requirements.”*³

7. That report concluded (at page 115):

“All this considered, we are convinced that combined elections are not only a disservice to the local councils and candidates but also to the electorate as well.”

³ https://www.electoralcommission.org.uk/sites/default/files/electoral_commission_pdf_file/Scottish-Election-Report-A-Final-For-Web.pdf at page 36