



Scotland Act 1998

1998 CHAPTER 46

PART I

THE SCOTTISH PARLIAMENT

Disqualification

16 Exceptions and relief from disqualification.

- (1) A person is not disqualified from being a member of the Parliament merely because—
- (a) he is a peer (whether of the United Kingdom, Great Britain, England or Scotland), or
 - ^{F1}(b) he is a Lord Spiritual.]

^{F2}(2)

- ^{F3}(2A) A person is not disqualified from being a member of the Parliament merely because of section 3 of the Act of Settlement, provided the person—
- (a) is resident in the United Kingdom, and
 - (b) meets one of the conditions mentioned in subsection (2B).

- (2B) The conditions are that the person—
- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom (excluding a person who does not require such leave by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases)), or
 - (b) is such a person but for the time being—
 - (i) has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act, or
 - (ii) has pre-settled status.

- (2C) For the purposes of subsection (2B)(b)(ii), a person has pre-settled status if the person has limited leave to remain in the United Kingdom granted by virtue of residence

Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Section 16. (See end of Document for details)

scheme immigration rules (within the meaning of section 17(1) of the European Union (Withdrawal Agreement) Act 2020).]

- (3) Subsection (4) applies where a person was, or is alleged to have been, disqualified from being a member of the Parliament (either generally or in relation to a particular constituency or region) on any ground other than one falling within section 15(1)(b).
- (4) The Parliament may resolve to disregard any disqualification incurred by that person on the ground in question if it considers that—
- (a) the ground has been removed, and
 - (b) it is proper to disregard any disqualification so incurred.
- (5) A resolution under this section shall not—
- (a) affect any proceedings under Part III of the Representation of the ^{M1}People Act 1983 as applied by an order under section 12, or
 - (b) enable the Parliament to disregard any disqualification which has been established in such proceedings or in proceedings under section 18.

Textual Amendments

- F1** S. 16(1)(b) substituted (11.5.2001) by 2001 c. 13, s. 1, **Sch. 1 para. 4**
- F2** S. 16(2) repealed (S.) (3.8.2020) by Scottish Elections (Franchise and Representation) Act 2020 (asp 6), **ss. 2(a)**, 12(2); S.S.I. 2020/162, reg. 2
- F3** S. 16(2A)-(2C) inserted (S.) (3.8.2020) by Scottish Elections (Franchise and Representation) Act 2020 (asp 6), **ss. 2(b)**, 12(2); S.S.I. 2020/162, reg. 2

Modifications etc. (not altering text)

- C1** S. 16 extended (11.3.1999) by S.I. 1999/787, arts. 1, 6, **Sch. 2 Pt. II para. 9(4)(b)(i)**

Marginal Citations

- M1** 1983 c. 2.

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