

# CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

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## EXPLANATORY NOTES

### BACKGROUND

#### **Part 7 Background - Miscellaneous and Final Provisions**

##### *Section 47 – section 3 of the Act of Settlement*

51. Section 18(7) of the Electoral Administration Act 2006 (“the 2006 Act”) repealed the first entry in Schedule 7 to the British Nationality Act 1981. That entry had modified the application of section 3 of the Act of Settlement (which concerns eligibility for membership of both Houses of Parliament, the Privy Council and certain offices under the Crown) by disapplying part of it in relation to Commonwealth and Republic of Ireland citizens; and in so doing allowed such citizens to be Members of either House and to hold offices under the Crown.
52. This change was made in consequence of the provision at section 18(1) of the 2006 Act, which substituted a new modification of section 3 of the Act of Settlement that applies only for the purposes of membership of the House of Commons: under its terms, Commonwealth citizens who do not have indefinite leave to remain in the UK are prevented from being members of the House of Commons. However, since the drafting of the legislation did not contain provisions expressly saving the first entry in Schedule 7 to the British Nationality Act 1981 in relation to membership of the House of Lords and other offices under the Crown, a question was raised about whether the eligibility of Commonwealth or Republic of Ireland citizens for membership of the House of Lords and other positions was affected.
53. The Government did not consider that the eligibility was affected. In particular, it clearly was not the intention of Parliament in passing the 2006 Act to change the entitlement of Commonwealth and Republic of Ireland citizens to sit in the House of Lords. The Government nevertheless concluded that it was best to put the issue beyond doubt.

##### *Section 48 – Parliamentary elections: counting of votes*

54. Rule 44(1) of the parliamentary elections rules contained in Schedule 1 to the Representation of the People Act 1983 (“the rules”) provides that the returning officer in a parliamentary election shall make arrangements for counting the votes as soon as practicable after the close of the poll. This gives discretion to returning officers about when exactly the count should begin, and in particular whether it is practicable to start the count on the evening of polling day or on the following day.
55. *Section 48* amends the rules to provide that a returning officer must take reasonable steps to begin counting the votes given on the ballot papers as soon as practicable within four hours of the close of the poll.