

# CONSTITUTIONAL REFORM AND GOVERNANCE ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 7: Miscellaneous and Final Provisions**

##### ***Section 47: Section 3 of the Act of Settlement***

320. *Subsection (1)* provides that the repeal (made by section 18(7) of the Electoral Administration Act 2006) of an entry in Schedule 7 to the British Nationality Act 1981 (which applied to section 3 of the Act of Settlement) applied only in relation to membership of the House of Commons, and to anything from which a person is disqualified by virtue of a disqualification from membership of the House of Commons. This confirms that the repeal did not apply in relation to membership of the House of Lords, the Privy Council and certain offices under the Crown.
321. *Subsection (2)* provides that the repeal had this effect from the coming into force of section 18 of the Electoral Administration Act 2006.

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

322. *Section 48* of the Act amends the parliamentary elections rules (“the rules”) contained in Schedule 1 to the Representation of the People Act 1983 so as to require a returning officer to take reasonable steps to begin counting the votes given on the ballot papers in a parliamentary election as soon as practicable within four hours of the close of poll (polling closes at 10pm). It does so by inserting a new rule 45(3A) in the Rules (*subsection (3)(a)*). *Subsection (2)* amends rule 44 of the Rules: the effect is that the returning officer must have regard to the new rule 45(3A) duty when (as required by rule 44(1)) making arrangements to commence the counting of votes as soon as practicable following the close of the poll. *Subsection (3)(b)* supplements the new rule 45(3A) duty by requiring the Electoral Commission to produce guidance for returning officers on the new duty.
323. Circumstances – such as local geography – may dictate that it is not possible to begin counting the votes given on ballot papers within four hours of the close of the poll in a parliamentary election. Accordingly, *subsection (4)* inserts a new rule 53ZA in the Rules, requiring a returning officer who has not been able to start the count within the four hour period to publish a statement, within 30 days of the poll date. This must state when the count started, describe the steps taken for the purpose of attempting to begin counting the votes within the four hour period, and explain why the returning officer was unable to start counting the votes given on ballot papers within that period. Under this new rule the returning officer is also required to deliver the statement to the Electoral Commission within the same 30 day period. The effect of paragraphs (3) and (4) of the new rule is that the Commission must list those constituencies that did not start the count within four hours of the close of poll in any report they produce under

section 5 of the Political Parties, Elections and Referendums Act 2000 on the conduct of the election.

***Section 49: Meaning of “Minister of the Crown”***

324. *Section 49* provides that the term “Minister of the Crown” in the Act will have the same meaning as provided in the Ministers of the Crown Act 1975. This includes Secretaries of State but also, for example, the Attorney General, the Lord Chancellor and the Minister for the Civil Service.

***Section 50: Financial provision***

325. *Section 50* provides that any expenditure incurred by a Minister of the Crown by virtue of the Act and other expenditure attributable to the Act can be paid for out of money provided by Parliament.

***Section 51: Power to make consequential provision***

326. *Section 51* contains a power to make changes to primary or secondary legislation in consequence of the Act by order. *Section 51(1)* provides that the power can be exercised by a Minister of the Crown, or two or more Ministers acting jointly.
327. *Subsection (2)* provides that an order may amend, repeal or revoke provision in primary or secondary legislation and may include transitional, transitory or saving provisions. An order under this section must be made by statutory instrument (*subsection (4)*). If it amends primary legislation, an order will be subject to the affirmative resolution procedure (*subsection (5)*). Any other order will be subject to negative resolution procedure (*subsection (6)*).

***Section 52: Extent, commencement, transitional provision and short title***

328. *Subsection (1)* provides that any other amendment or repeal made by the Act will have the same extent as the Act or relevant part of the Act to which it relates.
329. *Subsection (2)* provides that the Act, with the exception of those provisions set out in *subsection (3)*, will come into force on a day which a Minister of the Crown or two or more Ministers acting jointly, decide by order and that different provisions may be brought into force at different times.
330. *Subsection (3)* provides that *sections 41, 42* and Part 7 of the Act will come into force on the day the Act is passed.
331. *Subsection (4)* provides that a Minister of the Crown or two or more Ministers acting jointly may make an order making transitional, transitory or saving provisions in relation to the commencement of the provisions of the Act.
332. *Subsection (5)* provides that an order under *subsections (2) or (4)* must be made by statutory instrument.
333. *Subsection (6)* sets out the short title of the Act.