



Scottish Elections (Franchise and Representation) Act 2020

2020 asp 6

PART 1

FOREIGN NATIONALS

Candidacy etc.

2 Scottish parliamentary elections: nomination, election and holding office

In section 16 of the Scotland Act 1998 (exceptions and relief from disqualification)—

- (a) subsection (2) is repealed,
- (b) after subsection (2) insert—

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

3 Local government elections: nomination, election and holding office

- (1) Section 29 of the Local Government (Scotland) Act 1973 (qualifications for nomination, election and holding office as a member of a local authority in Scotland) is amended as follows.
- (2) In subsection (1), for “relevant citizen of the Union” substitute “qualifying foreign national”.
- (3) In subsection (2), the following definitions are repealed—
 - ““citizen of the Union”,
 - “relevant citizen of the Union””.
- (4) After subsection (4) insert—
 - “(5) For the purposes of this section, a “qualifying foreign national” means a person of any nationality who—
 - (a) is not a Commonwealth citizen or a citizen of the Republic of Ireland, and
 - (b) meets one of the conditions mentioned in subsection (6).
 - (6) 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.
 - (7) For the purposes of subsection (6)(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 scheme immigration rules (within the meaning of section 17(1) of the European Union (Withdrawal Agreement) Act 2020).”.