



Scottish Elections (Franchise and Representation) Act 2020

2020 asp 6

PART 1

FOREIGN NATIONALS

Enfranchisement for Scottish elections

1 Voting by qualifying foreign nationals

- (1) The Representation of the People Act 1983 is amended as follows.
- (2) In section 2(1) (local government electors), in paragraph (c)—
 - (a) after “or” insert “—
“(i) except in Scotland,”
 - (b) after “Union;” insert—
“(ii) in Scotland, a qualifying foreign national,”
- (3) In section 4(3) (entitlement to be registered as a local government elector), in paragraph (c)—
 - (a) after “or” insert “—
“(i) except in relation to a local government election in Scotland,”
 - (b) after “Union;” insert—
“(ii) in relation to a local government election in Scotland, a qualifying foreign national,”
- (4) In section 7B (notional residence: declarations of local connection)—
 - (a) in subsection (3)(e)—
 - (i) after “elections” insert “other than in Scotland”, and
 - (ii) after “Union” insert “or (if the declaration is made for the purposes only of the registration of local government electors in Scotland) a qualifying foreign national”, and

Status: This is the original version (as it was originally enacted).

- (b) in subsection (7B), after paragraph (aa) (inserted by section 8(2)(c) of this Act) insert—
 - “(ab) a declaration of local connection made by a qualifying foreign national.”
- (5) In section 15(5B) (service declaration), after paragraph (a) insert—
 - “(aa) a service declaration made by a qualifying foreign national.”
- (6) In section 16(1) (contents of service declaration), in paragraph (e)—
 - (a) after “or” in the second place it occurs insert “(except where the declaration is made for the purposes only of the registration of local government electors in Scotland)”, and
 - (b) after “Union” insert “or (if the declaration is made for the purposes only of the registration of local government electors in Scotland) a qualifying foreign national”.
- (7) In section 17(1) (effect of service declaration), in paragraph (c)—
 - (a) after “or” in the second place it occurs insert “(in relation to a declaration made other than for the purposes of the registration of local government electors in Scotland)”, and
 - (b) after “Union” insert “or (in relation to a declaration made for the purposes of the registration of local government electors in Scotland) a qualifying foreign national”.
- (8) In section 49(5)(b) (effect of registers), after sub-paragraph (iv) insert—
 - “(v) in the case of a person registered as a local government elector in Scotland or entered in the list of proxies by virtue of being a qualifying foreign national, a qualifying foreign national.”
- (9) In section 202 (general provisions as to interpretation), after the definition of “qualifying address” in subsection (1) insert—
 - ““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) either—
 - (i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
 - (ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave.”

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—

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“(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—

Status: This is the original version (as it was originally enacted).

- (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).”.