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Changes to legislation: There are currently no known outstanding effects for the Elections Act 2022, Schedule 8. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 8

Section 15

VOTING AND CANDIDACY RIGHTS OF EU CITIZENS

PART 1

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT 1983

- 1 (1) In section 2 of RPA 1983 (local government electors), in subsection (1)(c), for the words from “Ireland” to the end substitute “Ireland or—
- (i) in relation to a local government election in England, a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) in relation to a local government election in Wales, a relevant citizen of the Union or a qualifying foreign citizen; and”.
- (2) In section 4 of that Act (entitlement to be registered as local government elector), in subsection (3)(c), for the words from “Ireland” to the end substitute “Ireland or—
- (i) in relation to a local government election in England, a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) in relation to a local government election in Wales, a relevant citizen of the Union or a qualifying foreign citizen; and”.
- (3) In section 7B of that Act (notional residence: declarations of local connection)—
- (a) in subsection (3)(e), for the words from “Ireland” to the end substitute “Ireland or—
 - (i) if the declaration is made for the purposes only of the registration of local government electors in England, a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) if the declaration is made for the purposes only of the registration of local government electors in Wales, a relevant citizen of the Union or a qualifying foreign citizen;”;
 - (b) in subsection (7)(a), for “by a relevant citizen of the Union; and” substitute “—

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- (i) in relation to local government elections in England, by a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) in relation to local government elections in Wales, by a relevant citizen of the Union; and”.
- (4) In section 15 of that Act (service declaration), in subsection (5)(a), for “, or by a relevant citizen of the Union; and” substitute “or—
 - (i) in relation to local government elections in England, by a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) in relation to local government elections in Wales, by a relevant citizen of the Union; and”.
- (5) In section 16 of that Act (contents of service declaration), as it extends to England and Wales, in subsection (1)(e) for the words from “a relevant” to the end substitute “—
 - (i) if the declaration is made for the purposes only of the registration of local government electors in England, a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) if the declaration is made for the purposes only of the registration of local government electors in Wales, a relevant citizen of the Union or a qualifying foreign citizen,”.
- (6) In section 16 of that Act (contents of service declaration), as it extends to Northern Ireland, in paragraph (e) for “or a relevant citizen of the Union” substitute “or a qualifying EU citizen or an EU citizen with retained rights”.
- (7) In section 17 of that Act (effect of service declaration), in subsection (1)(c), for the words from “a relevant” to the end substitute “—
 - (i) if the declaration is made for the purposes only of the registration of local government electors in England, a qualifying EU citizen or an EU citizen with retained rights, or
 - (ii) if the declaration is made for the purposes only of the registration of local government electors in Wales, a relevant citizen of the Union or a qualifying foreign citizen,

of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.”
- (8) In section 49 of that Act (effect of registers), in subsection (5)(b)—
 - (a) after sub-paragraph (iii) insert—
 - “(iiia) in the case of a person registered as a local government elector in England or entered in the list of proxies by virtue of being a qualifying EU citizen or an EU citizen with retained rights, a qualifying EU citizen or an EU citizen with retained rights;”;
 - (b) in sub-paragraph (iv), after “elector” insert “in Wales”.
- (9) In section 201 of that Act (regulations)—
 - (a) in subsection (2), after “203(4)” insert “or [203A\(2\)](#)”;

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(b) in subsection (2A), after “above” insert “or section [203A\(2\)](#)”.

(10) In section 203 of that Act (local government provisions as to England and Wales), at the appropriate place insert the following definitions—

““EU citizen with retained rights” has the meaning given by section [203B](#);”;

“qualifying EU citizen” has the meaning given by section [203A](#);”.

(11) After section 203 of that Act insert—

“203A Meaning of “qualifying EU citizen”

(1) In this Act “qualifying EU citizen” means a person who—

- (a) is a citizen of a country for the time being listed in [Schedule 6A](#), and
- (b) either—

- (i) does not require leave under the Immigration Act 1971 to enter or remain in the United Kingdom or any of the Islands, or

- (ii) does require such leave but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave.

(2) The Secretary of State must by regulations add a country to the list in [Schedule 6A](#) where—

- (a) the country is a qualifying country,
- (b) the United Kingdom and the country intend to become parties to a relevant treaty, and
- (c) section 20 of the Constitutional Reform and Governance Act 2010 (treaties to be laid before Parliament before ratification) applies in relation to the relevant treaty and the requirements of that section have been met such that the relevant treaty may be ratified.

(3) The Secretary of State may by regulations remove a country from the list in [Schedule 6A](#) where the country ceases to be a party to a relevant treaty to which the United Kingdom is also a party.

(4) The Secretary of State must, as soon as reasonably practicable after regulations are made under subsection [\(2\)](#) or [\(3\)](#), give notice of that fact to—

- (a) registration officers in England,
- (b) registration officers for elections of police and crime commissioners for police areas in Wales,
- (c) the Chief Electoral Officer for Northern Ireland, and
- (d) the Electoral Commission.

(5) In this section—

“the Islands” means the Channel Islands and the Isle of Man;

“qualifying country” means a country—

- (a) that was a member State immediately before IP completion day, other than the Republic of Ireland,
- (b) that was part of a member State immediately before IP completion day, other than the Republic of Ireland, or

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(c) that is formed entirely of two or more former countries, both or all of which were member States immediately before IP completion day, other than the Republic of Ireland;

“ratification”, in relation to a treaty, is to be construed in accordance with section 25(3) of the Constitutional Reform and Governance Act 2010;

“relevant treaty” means a treaty containing provision relating to eligibility to vote and to stand as a candidate at elections;

“treaty” has the same meaning as in Part 2 of the Constitutional Reform and Governance Act 2010 (see section 25 of that Act).

203B Meaning of “EU citizen with retained rights”

- (1) In this Act “EU citizen with retained rights” means a person who—
 - (a) is a citizen of a country falling within subsection (8),
 - (b) was a citizen of the Union immediately before IP completion day,
 - (c) was resident in the United Kingdom or any of the Islands immediately before that day,
 - (d) falls within any of subsections (2) to (4), and
 - (e) is not a qualifying EU citizen.
- (2) A person falls within this subsection if the person—
 - (a) has UK or Islands leave granted by virtue of residence scheme immigration rules, and
 - (b) has such leave otherwise than in accordance with provision in residence scheme immigration rules for joining family members.
- (3) A person falls within this subsection if—
 - (a) the person has UK or Islands leave but does not fall within subsection (2), and
 - (b) the requirements of subsection (5) are met in relation to the person.
- (4) A person falls within this subsection if—
 - (a) the person does not require UK or Islands leave,
 - (b) the person is resident in the United Kingdom or any of the Islands, and
 - (c) the requirements of subsection (5) are met in relation to the person.
- (5) The requirements referred to in subsections (3)(b) and (4)(c) are that—
 - (a) at all times since the relevant date, the person has either had UK or Islands leave or not required UK or Islands leave, and
 - (b) the person was resident in the United Kingdom or any of the Islands at all times after the relevant date when the person did not require UK or Islands leave.
- (6) In determining whether the requirement in subsection (5)(a) is met in relation to a person, any period to which subsection (7) applies is to be disregarded if the person was resident in the United Kingdom or any of the Islands during the period.

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- (7) This subsection applies to any period after the relevant date during which the person required UK or Islands leave but did not have it, if at the end of the period the person was granted UK or Islands leave—
- (a) in pursuance of an application made before the end of the relevant date, or
 - (b) in pursuance of an application made after the relevant date, where the leave was granted—
 - (i) by virtue of residence scheme immigration rules, and
 - (ii) otherwise than in accordance with provision in such rules for joining family members.
- (8) A country falls within this subsection where the country—
- (a) was a member State immediately before IP completion day, other than the Republic of Ireland,
 - (b) was part of a member State immediately before IP completion day, other than the Republic of Ireland, or
 - (c) is formed of two or more former countries, at least one of which was a member State immediately before IP completion day, other than the Republic of Ireland.
- (9) In this section a reference to a person having UK or Islands leave includes a reference to a person who is, by virtue of any enactment, to be treated as having such leave.
- (10) In this section—
- “the 1971 Act” means the Immigration Act 1971;
 - “the Islands” means the Channel Islands and the Isle of Man;
 - “the relevant date” means 30 June 2021;
 - “immigration rules” has the same meaning as in the 1971 Act;
 - “residence scheme immigration rules” means—
 - (a) residence scheme immigration rules within the meaning of Part 3 of the European Union (Withdrawal Agreement) Act 2020 (see section 17(1) of that Act),
 - (b) Appendix EU to the Guernsey immigration rules,
 - (c) Appendix EU to the Isle of Man immigration rules, or
 - (d) Appendix EU(J) to the Jersey immigration rules;
 - “UK or Islands leave” means leave under the 1971 Act to enter or remain in the United Kingdom or any of the Islands.
- (11) In this section—
- “Guernsey immigration rules” means the rules made in respect of the Bailiwick of Guernsey under sections 1(4) and 3(2) of the 1971 Act as extended to that Bailiwick;
 - “Isle of Man immigration rules” means the rules made in respect of the Isle of Man under section 3(2) of the 1971 Act as extended to the Isle of Man;
 - “Jersey immigration rules” means the rules contained in the directions made in respect of the Bailiwick of Jersey under sections 1(4A) and 3(2) of the 1971 Act as extended to that Bailiwick.

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(12) References in this section to provision in residence scheme immigration rules for joining family members are references to—

- (a) paragraph EU11A or EU14A of Appendix EU to the immigration rules or provision replacing either of those paragraphs, or
- (b) provision corresponding to provision within paragraph (a) in the Guernsey immigration rules, the Isle of Man immigration rules or the Jersey immigration rules.”

(12) After Schedule 6 to that Act insert—

“SCHEDULE 6A

Section 203A

LIST OF COUNTRIES FOR PURPOSES OF SECTION 203A

- | | |
|---|-------------|
| 1 | Luxembourg. |
| 2 | Poland. |
| 3 | Portugal. |
| 4 | Spain.” |

Commencement Information

II Sch. 8 para. 1 not in force at Royal Assent, see [s. 67\(1\)](#)

PART 2

AMENDMENTS IN RELATION TO CERTAIN LOCAL ELECTIONS IN ENGLAND AND WALES

City of London (Various Powers) Act 1957

- 2 (1) The City of London (Various Powers) Act 1957 is amended as follows.
- (2) In section 4(1) (interpretation of Part 2)—
- (a) omit the definitions of “citizen of the Union” and “relevant citizen of the Union”;
 - (b) at the appropriate places insert—
 - ““EU citizen with retained rights” has the same meaning as in the Act of 1983 (see section 203B of that Act);”;
 - ““qualifying EU citizen” has the same meaning as in the Act of 1983 (see section 203A of that Act);”.
- (3) In section 5 (qualification of candidate for election to common council), in subsection (1), for “or a relevant citizen of the Union” substitute “or a qualifying EU citizen or an EU citizen with retained rights”.
- (4) In section 6 (qualification of voters at ward elections), in subsection (1), for “relevant citizens of the Union” substitute “qualifying EU citizens or EU citizens with retained rights”.

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Commencement Information

I2 Sch. 8 para. 2 not in force at Royal Assent, see [s. 67\(1\)](#)

Local Government Act 1972

- 3 In section 79 of the Local Government Act 1972 (qualifications for election and holding office as member of local authority), as it extends to England and Wales and applies in relation to England—
- (a) in subsection (1), for “a relevant citizen of the Union” substitute “, in the case of a local authority in England, a qualifying EU citizen or an EU citizen with retained rights”;
 - (b) for subsection (2A) substitute—

“(2A) In this section “qualifying EU citizen” and “EU citizen with retained rights” have the same meaning as in the Representation of the People Act 1983 (see sections [203A](#) and [203B](#) of that Act).”

Commencement Information

I3 Sch. 8 para. 3 not in force at Royal Assent, see [s. 67\(1\)](#)

Greater London Authority Act 1999

- 4 In section 20 of the Greater London Authority Act 1999 (qualification to be the Mayor or an Assembly member)—
- (a) in subsection (2)(c), for “relevant citizen of the Union” substitute “qualifying EU citizen or an EU citizen with retained rights”;
 - (b) in subsection (8)—
 - (i) omit the definitions of “citizen of the Union” and “relevant citizen of the Union”;
 - (ii) in subsection (8), at the appropriate place insert—

““qualifying EU citizen” and “EU citizen with retained rights” have the same meaning as in the Representation of the People Act 1983 (see sections [203A](#) and [203B](#) of that Act);”.

Commencement Information

I4 Sch. 8 para. 4 not in force at Royal Assent, see [s. 67\(1\)](#)

Local Democracy, Economic Development and Construction Act 2009

- 5 In Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 (mayors for combined authority areas), in paragraph 8(3), for the definition of “qualifying citizen” substitute—

““qualifying citizen” means a person who is—

 - (a) a qualifying Commonwealth citizen (within the meaning given by section 79 of the Local Government Act 1972),

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- (b) a citizen of the Republic of Ireland,
- (c) a qualifying EU citizen (within the meaning given by section 203A of the Representation of the People Act 1983), or
- (d) an EU citizen with retained rights (within the meaning given by section 203B of that Act)."

Commencement Information

I5 Sch. 8 para. 5 not in force at Royal Assent, see [s. 67\(1\)](#)

Police Reform and Social Responsibility Act 2011

- 6 (1) The Police Reform and Social Responsibility Act 2011 is amended as follows.
- (2) In section 51(6C)(a) (election to fill vacancy in office of commissioner), for the words from "disqualified" to "Union" substitute "—
- (i) disqualified as a peer from voting as an elector at parliamentary elections, or
 - (ii) a qualifying EU citizen, or an EU citizen with retained rights, who has attained the age of 18".
- (3) In section 52(1C)(a) (persons entitled to vote), for the words from "disqualified" to the end substitute "—
- (i) disqualified as a peer from voting as an elector at parliamentary elections, or
 - (ii) a qualifying EU citizen, or an EU citizen with retained rights, who has attained the age of 18,".
- (4) In section 64(1C)(a) (disqualification from election as police and crime commissioner), for "relevant citizen of the Union" substitute "qualifying EU citizen or an EU citizen with retained rights".
- (5) In section 68 (citizenship condition)—
- (a) in subsection (2)(c), for "citizen of the Union" substitute "qualifying EU citizen or an EU citizen with retained rights";
 - (b) omit subsection (5).
- (6) In section 102(1) (interpretation)—
- (a) omit the definition of "relevant citizen of the Union";
 - (b) at the appropriate place insert—

““qualifying EU citizen” and “EU citizen with retained rights” have the same meaning as in the Representation of the People Act 1983 (see sections 203A and 203B of that Act);”.

Commencement Information

I6 Sch. 8 para. 6 not in force at Royal Assent, see [s. 67\(1\)](#)

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PART 3

AMENDMENTS IN RELATION TO CERTAIN ELECTIONS IN NORTHERN IRELAND

Electoral Law Act (Northern Ireland) 1962

- 7 In Schedule 5 to the Electoral Law Act (Northern Ireland) 1962 (local elections rules), in the Appendix of Forms, in form 2 (consent to nomination), for “or a citizen of another Member State of the European Union” substitute “, qualifying EU citizen (within the meaning of section 203A of the Representation of the People Act 1983) or EU citizen with retained rights (within the meaning of section 203B of that Act)”.

Commencement Information

- I7** Sch. 8 para. 7 not in force at Royal Assent, see [s. 67\(1\)](#)

Local Government Act (Northern Ireland) 1972

- 8 In section 3 of the Local Government Act (Northern Ireland) 1972 (qualifications) —
- (a) in subsection (1), for “or a relevant citizen of the Union” substitute “or a qualifying EU citizen or an EU citizen with retained rights”;
 - (b) in subsection (2)—
 - (i) omit from ““citizen of the Union” shall” to “Ireland; and”;
 - (ii) after “election” insert “; and “qualifying EU citizen” and “EU citizen with retained rights” have the same meaning as in the Representation of the People Act 1983 (see sections 203A and 203B of that Act).”

Commencement Information

- I8** Sch. 8 para. 8 not in force at Royal Assent, see [s. 67\(1\)](#)

Elected Authorities (Northern Ireland) Act 1989

- 9 (1) The Elected Authorities (Northern Ireland) Act 1989 is amended as follows.
- (2) In section 1(1)(c) (local electors in Northern Ireland), for “or a relevant citizen of the Union” substitute “, a qualifying EU citizen or an EU citizen with retained rights”.
- (3) In section 10(1) (interpretation)—
- (a) omit the definitions of “citizen of the Union” and “relevant citizen of the Union”;
 - (b) at the appropriate place insert—

““qualifying EU citizen” and “EU citizen with retained rights” have the same meaning as in the Representation of the People Act 1983 (see sections 203A and 203B of that Act).”
- (4) In Part 1 of Schedule 1 (provisions of RPA 1983 applied to local elections), at the end insert—

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“Sections 203A and 203B (meaning of “qualifying EU citizen” and “EU citizen with retained rights”).

Schedule 6A (list of countries for the purposes of section 203A).”

(5) In Part 2 of Schedule 1 (modifications of provisions of RPA 1983 applied to local elections)—

(a) in paragraph 7, before sub-paragraph (2) insert—

“(1A) In section 4(3)(c)—

(a) in sub-paragraph (i), omit “in relation to a local government election in England,”, and

(b) omit sub-paragraph (ii) (and the “or” preceding it).”;

(b) for paragraph 7A substitute—

“7A In section 7B—

(a) references to the United Kingdom are to be read as references to Northern Ireland;

(b) in subsection (3)(e)—

(i) in sub-paragraph (i), omit “in England,”, and

(ii) omit sub-paragraph (ii) (and the “or” preceding it);

(c) in subsection (7)(a)—

(i) in sub-paragraph (i), omit “in England,”, and

(ii) omit sub-paragraph (ii) (and the “or” preceding it).”;

(c) before paragraph 12 insert—

“11A In section 15(5)(a)—

(a) in sub-paragraph (i), omit “in England,”, and

(b) omit sub-paragraph (ii) (and the “or” preceding it).

11B In section 17(1)(c)—

(a) in sub-paragraph (i), omit “in England,”, and

(b) omit sub-paragraph (ii) (and the “or” preceding it).”;

(d) in paragraph 12, for paragraph (b) substitute—

“(b) in subsection (5)—

(i) in the first sentence, omit “, or entered in the list of proxies,”,

(ii) in paragraph (b)(iiia), omit “in England or entered in the list of proxies”, and

(iii) omit paragraph (b)(iv).”

Commencement Information

I9 Sch. 8 para. 9 not in force at Royal Assent, see [s. 67\(1\)](#)

Northern Ireland Act 1998

10 (1) Section 36 of the Northern Ireland Act 1998 (disqualification) is amended as follows.

(2) After subsection (4) insert—

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“(4A) A person who is a qualifying EU citizen or an EU citizen with retained rights is disqualified for membership of the Assembly unless the person is resident for the purposes of section 4(3) of the Representation of the People Act 1983 in—

- (a) an electoral area in Great Britain, or
- (b) a district electoral area in Northern Ireland.”

(3) In subsection (7), for “citizen of the European Union” substitute “qualifying EU citizen or an EU citizen with retained rights”.

(4) After subsection (7) insert—

“(8) In this section, “qualifying EU citizen” and “EU citizen with retained rights” have the same meaning as in the Representation of the People Act 1983 (see sections 203A and 203B of that Act).”

Commencement Information

110 Sch. 8 para. 10 not in force at Royal Assent, see [s. 67\(1\)](#)

Northern Ireland Assembly (Elections) Order 2001

- 11 (1) In Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001 ([S.I. 2001/2599](#)) (application with modifications of RPA 1983 etc), the table is amended as follows.
- (2) In the right-hand column of the entry for section 49 of RPA 1983 (effect of registers), for the existing text substitute “In subsection (5)(b)(iia), for “a local government elector in England” substitute “an elector””.
- (3) After the entry for section 202 of RPA 1983 insert—

“Section 203A (meaning of “qualifying EU citizen”)

Section 203B (meaning of “EU citizen with retained rights”)”.

(4) After the entry for Schedule 4A to RPA 1983 insert—

“Schedule 6A (list of countries for purposes of section 203A)”.

Commencement Information

111 Sch. 8 para. 11 not in force at Royal Assent, see [s. 67\(1\)](#)

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PART 4

TRANSITIONAL PROVISION ETC

Holders of elected offices

- 12 (1) This paragraph applies where—
- (a) immediately before the coming into force of a particular provision of this Schedule (the “relevant provision”), a person holds an office falling within sub-paragraph (4),
 - (b) the person’s term in that office is due to continue after that time, and
 - (c) apart from this paragraph, the person would become disqualified for continuing to hold that office as a result of the coming into force of the relevant provision.
- (2) The coming into force of the relevant provision does not affect the person’s qualification to continue holding that office until the end of their current term in that office.
- (3) For the purposes of this paragraph, a person is to be treated as holding an office from the time when the person is elected as, or declared to be returned as, the holder of the office (and accordingly the person’s term of office is to be treated as beginning at that time).
- (4) The following offices fall within this sub-paragraph—
- (a) member of the Northern Ireland Assembly;
 - (b) member of a local authority in England;
 - (c) elected mayor (within the meaning of Part 1A of the Local Government Act 2000);
 - (d) mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
 - (e) Mayor of London;
 - (f) member of the London Assembly;
 - (g) police and crime commissioner.
- (5) In sub-paragraph (4)(b), “local authority in England” means a county council in England, a district council, a parish council, a London borough council or the Council of the Isles of Scilly.

Commencement Information

I12 Sch. 8 para. 12 not in force at Royal Assent, see [s. 67\(1\)](#)

Power to make transitional and saving provision

- 13 (1) The Secretary of State may by regulations make transitional or saving provision in connection with provision made by this Schedule.
- (2) Regulations under this paragraph may—
- (a) make provision modifying the effect of any statutory provision (including this Act);
 - (b) make different provision for different purposes.

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- (3) Regulations under this paragraph are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this paragraph may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) Nothing in this paragraph affects the generality of section 67(4) (power to make transitional etc provision in connection with commencement).

Commencement Information

I13 Sch. 8 para. 13 not in force at Royal Assent, see [s. 67\(1\)](#)

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