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Changes to legislation: There are currently no known outstanding effects
for the Elections Act 2022, Part 1. (See end of Document for details)

SCHEDULES

PROSPECTIVE

SCHEDULE 8

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\(1\)](#)

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