

*These notes relate to the Scottish Elections (Franchise and Representation)
Act 2020 (asp 6) which received Royal Assent on 1 April 2020*

SCOTTISH ELECTIONS (FRANCHISE AND REPRESENTATION) ACT 2020

EXPLANATORY NOTES

THE STRUCTURE AND SUMMARY OF THE ACT

Part 1 – Foreign Nationals

Section 2 - Scottish parliamentary elections: nomination, election and holding office

10. Section 2 of the Act amends section 16 of the 1998 Act to remove the disqualification applied to certain foreign nationals in relation to membership of the Scottish Parliament by virtue of the Act of Settlement 1700 (which allows UK, Irish and Commonwealth citizens to stand in UK Parliamentary elections (and, by virtue of section 16, Scottish Parliament elections)). Subsection (2) of section 16 currently enables citizens of the European Union resident in the United Kingdom to become members of the Scottish Parliament (subject to any other disqualification such as age). This separate provision in respect of EU nationals is repealed by section 2(a).
11. New subsection (2A), inserted into section 16 of the 1998 Act by this section, will effectively allow, subject to certain conditions, all foreign nationals to stand as candidates, to be nominated for election and to hold office in the Scottish Parliament. Sub-paragraph (a) requires the person to be resident in the United Kingdom. Sub-paragraph (b) requires the person to have indefinite leave to remain in the UK or pre-settled status. This new category of candidate will be subject to the existing restrictions on candidature which already apply to the existing categories of candidates.