

Draft Order laid before the Scottish Parliament under section 115 and schedule 7 of the Scotland Act 1998 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2020 No.

CONSTITUTIONAL LAW
REPRESENTATION OF THE PEOPLE

The Scottish Parliament (Elections etc.) Amendment Order 2020

Made - - - - 2020

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by section 12(1) (a) of the Scotland Act 1998(1) and all other powers enabling them to do so.

In accordance with section 7(1) and (2)(g) of the Political Parties, Elections and Referendums Act 2000(2), the Scottish Ministers have consulted the Electoral Commission.

In accordance with section 115 and schedule 7 of the Scotland Act 1998(3), a draft of this Order has been laid before, and approved by resolution of, the Scottish Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Scottish Parliament (Elections etc.) Amendment Order 2020.

(2) This Order comes into force on the date on which section 1 of the Scottish Elections (Franchise and Representation) Act 2020(4) comes into force.

Amendment of the Scottish Parliament (Elections etc.) Order 2015

2. The Scottish Parliament (Elections etc.) Order 2015(5) is amended in accordance with articles 3 and 4.

3. In article 2(1) (interpretation)—

(a) omit the definitions of “citizen of the Union” and “relevant citizen of the Union”, and

(1) 1998 c. 46. Section 12 was substituted by section 4(1) of the Scotland Act 2016 (c.11).

(2) 2000 c. 41. There are amendments to section 7 but none are relevant to this Order.

(3) Schedule 7 is amended by section 3 of the Scotland Act 2012 (c.11). There are other amendments that are not relevant to this Order.

(4) 2020 asp 6 (“the 2020 Act”).

(5) S.S.I. 2015/425 (“the 2015 Order”).

(b) after the definition of “the proxy postal voters list” insert—

““qualifying foreign national” has the same meaning as in section 202(1) of the 1983 Act(6);”.

4. In article 21(2)(b)(iii) (effect of registers) for “a relevant citizen of the Union;” substitute “a qualifying foreign national;”.

Amendment of the Scottish Parliament (Elections etc.) Order 2010

5. The Scottish Parliament (Elections etc.) Order 2010(7) is amended in accordance with articles 6 and 7.

6. In article 2(1) (interpretation) after the definition of “Scottish parliamentary election” insert—

““qualifying foreign national” has the same meaning as in section 202(1) of the 1983 Act(8);”.

7. In article 21(3)(b)(iii) (effect of registers) for “a relevant citizen of the Union;” substitute “a qualifying foreign national;”.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(6) The definition of “qualifying foreign national” is added to section 202(1) of the Representation of the People Act 1983 (c.2) by section 1(9) of the 2020 Act.
(7) S.I. 2010/2999 (“the 2010 Order”). Subject to paragraph 3 of schedule 9 of the 2015 Order, the 2010 Order was revoked by article 93 and schedule 9 of the 2015 Order.
(8) The definition of “qualifying foreign national” is added to section 202(1) of the Representation of the People Act 1983 (c.2) by section 1(9) of the 2020 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Scottish Parliament (Elections etc.) Order 2015 (“the 2015 Order”) and the Scottish Parliament (Elections etc.) Order 2010 (“the 2010 Order”) in consequence of the Scottish Elections (Franchise and Representation) Act 2020 (“the 2020 Act”).

Article 3 omits the definitions of “citizen of the Union” and “relevant citizen of the Union” contained in article 2 of the 2015 Order and inserts a definition of “qualifying foreign national”. This reflects the introduction of “qualifying foreign national” as an eligible category of local government elector in Scotland by section 1 of the 2020 Act. Section 1 of the 2020 Act removes EU Citizens as a particular category of local government electors in Scotland.

Article 21(2)(b)(iii) of the 2015 Order provides that a person entered in the list of proxies is not to be excluded from voting at a Scottish parliamentary election on the ground that they are not, or were not on the date of their appointment, an EU Citizen. Article 4 amends the reference to “a relevant citizen of the Union” in Article 21(2)(b)(iii) to refer to a “qualifying foreign national”.

Paragraph 3(f) of schedule 9 of the 2015 Order preserved article 21(2)-(4) of the 2010 Order (prohibition of exclusion from voting) so far as those paragraphs relate to a person registered as a local government elector. Therefore, article 21(3)(b)(iii) of the 2010 Order provides that a person registered as a local government elector is not to be excluded from voting at a Scottish parliamentary election on the ground that they are not, or were not (on the “relevant date” (article 21(4)), a relevant citizen of the Union. Article 6 inserts a definition of “qualifying foreign national” into article 2 of the 2010 Order and article 7 amends the reference to “a relevant citizen of the Union” in article 21(3)(b)(iii) of the 2010 Order to refer to a “qualifying foreign national”.