



7 February 2022

The Lord Jay of Ewelme GCMG
Chair of Protocol on Ireland/Northern Ireland Sub-Committee
House of Lords
London
SW1A 0PW

Dear Lord Jay

Re: Clause 13 of the Elections Bill: Proposed changes to Voting/Candidacy Rights of EU citizens in Northern Ireland and the implications of Article 2 of the Ireland/Northern Ireland Protocol

We write to draw your attention to our concerns about the provisions of the Elections Bill that relate to the voting/candidacy rights of EU citizens in Northern Ireland to vote and stand in local district council elections, in the context of the Government's non-diminution of rights obligation under Article 2 (1) of Protocol.

You will be aware that the second reading of the Elections Bill in the House of Lords is scheduled for 23 February 2022. Accordingly, we are raising the issue with you and ask that you raise these concerns and seek the Government's assessment of the conformity of provisions of the Bill with Article 2(1) of the Protocol.

We consider that the changes proposed by the Elections Bill could be in conflict with the Government's obligations under Article 2(1) of the Protocol and may amount to a breach of Article 2(1).

In particular, we are concerned about the implications of the provisions in Part 3 of Schedule 8, to be brought into effect by clause 13 of the Elections Bill, should it become law, on the rights of certain EU citizens who come to reside in Northern Ireland after the end of the Brexit Transition Period, that is after 31 December 2020.

The implications of these provisions for EU citizens who have arrived in Northern Ireland after that date, and who are not Commonwealth or Irish citizens, are that they will not be able to vote and stand for local elections in Northern Ireland without a mutual voting and candidacy rights agreement being in place between the UK Government and the relevant individual EU Member State.

In October 2021 we raised our concerns about the Elections Bill with the House of Commons Public Bill Committee. We attach a copy of that submission which sets out the details of our concerns.

Further, prior to the Elections Bill being introduced in Parliament we had written to the Secretary of State for Northern Ireland on 11 June 2021, highlighting our concerns that any changes to domestic law that would result in the loss of voting and candidacy rights for EU citizens could engage Article 2 (1). To date we have not received a formal response to our letter, though we were alerted by Government officials to the Government's proposed changes to the rights of EU citizens in Northern Ireland set out its Policy Paper "Local Voting Rights for EU Citizens Living in the UK" published on 17 June 2021¹.

Since we wrote to the Public Bill Committee in October 2021, we have been liaising with Northern Ireland Office (NIO) officials to outline our concerns and have sought the Government's assessment of the potential impact of the Bill's provisions in relation to Article 2. To date, we have not yet received this assessment from the NIO.

It is also of note that there is no reference in the Bill's explanatory notes as to what consideration the Government has given to ensuring the Bill's compliance with Article 2 (1).

We would therefore request that the Committee asks the Government to set out, in full, its assessment of the said provisions of the Elections Bill in the context of their conformity with its commitment under Article 2(1) of the Protocol.

We look forward to receiving your response and remain available to discuss the issue with you further if this would be helpful.

Yours sincerely



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¹ UK Government (2021) Local Voting Rights for EU Citizens Living in the UK, Policy Paper