



HOUSE OF LORDS

European Affairs Sub-Committee on the Protocol
on Ireland/Northern Ireland

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Lord True CBE
Minister of State
Cabinet Office
70 Whitehall
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24 February 2022

Dear Lord True,

ELECTIONS BILL

In its December 2020 *Review of investigative and scrutiny Committees*, which first proposed the establishment of the Sub-Committee on the Protocol on Ireland/Northern Ireland, the Liaison Committee identified the six core tasks of the Protocol Committee, one of which was **“Scrutiny of the implications of relevant domestic UK legislation and policy for Northern Ireland”**. In our *Introductory report* of July 2021, we set out our intention to consider the implications of relevant domestic legislation for Northern Ireland in this context around the time of a Government Bill receiving Second Reading in the House of Lords.

We considered the Elections Bill at our meeting on 23 February 2022, in particular in light of concerns raised with us about the Bill [in correspondence from the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission](#). I have enclosed their letter for your information. The Chief Commissioners’ concerns are set out in full in [their submission of 20 October 2021 to the House of Commons Public Bill Committee on the Elections Bill](#).

We note that under clause 13 and Schedule 8 of the Bill, EU citizens who are resident in Northern Ireland and who are not Irish citizens, qualifying Commonwealth citizens, EU citizens with retained rights, or qualifying EU citizens will not be able to vote or stand in local or Northern Ireland Assembly elections. Effectively this would mean that EU citizens who have arrived in Northern Ireland after 31 December 2020 and are not Commonwealth or Irish citizens would have voting and candidacy rights only where there is a reciprocal agreement in place between the UK and the relevant EU Member State. Currently, only Luxembourg, Poland, Portugal and Spain are covered by such agreements.

The Chief Commissioners of the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission have raised concerns 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 summary, they base this view on the proposition that the rights of EU citizens to vote and stand in local elections in Northern Ireland engage rights in the Belfast/Good Friday Agreement; that these rights were given effect in Northern Ireland’s legal order as regards EU citizens prior to the end of the post-Brexit transition (or implementation) period and were underpinned by EU law up to the end of the transition period; that the elements of this legal underpinning that remain in retained EU law

would be removed by the provisions of the Bill; that the Bill would result in a potential diminution of rights protected by the 1998 Agreement; and that this could not lawfully have occurred if the UK had remained in the EU.

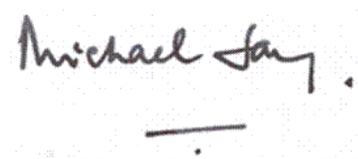
We understand that the Chief Commissioners wrote to the Secretary of State for Northern Ireland on 11 June 2021 to raise these concerns and have subsequently been liaising with officials from the Northern Ireland Office but have not to date received a formal response to their letter.

In that context, we invite the Government to set out in full its assessment of clause 13 and Schedule 8 of the Bill in the context of their conformity with its obligation under Article 2 of the Protocol to ensure no diminution of rights.

In order to inform the Committee Stage deliberations on the Bill, we would be grateful for a response to this letter by 9 March 2022.

I am copying this letter to Baroness Drake, Chair of the Constitution Committee, Sir William Cash MP, Chair of the Commons European Scrutiny Committee, George Wilson, Clerk of the Commons European Scrutiny Committee, Simon Hoare MP, Chair of the Commons Northern Ireland Affairs Committee, Les Saunders and Donald Harris, Cabinet Office; Alex Badrick and Ellie Markham, Parliamentary Branch, Cabinet Office; and Sinéad McLaughlin MLA, Chair of the Northern Ireland Assembly Committee for the Executive Office.

Yours sincerely,

A handwritten signature in black ink that reads "Michael Jay". The signature is written in a cursive style and is enclosed within a thin black rectangular border.

Lord Jay of Ewelme
Chair of the Protocol on Ireland/Northern Ireland Sub-Committee