

## **DRAFT STATUTORY INSTRUMENT TO ILLUSTRATE THE USE OF THE CLAUSE 17(1) POWER UNDER THE EUROPEAN UNION (WITHDRAWAL) BILL**

### **Note on the Draft Statutory Instrument: The European Parliamentary Elections Etc. (Repeal, Revocation, Amendment and Saving Provisions) (United Kingdom and Gibraltar) (EU Exit) Regulations 2018**

1        Once the UK leaves the EU, the obligation to return Members to the European Parliament will cease and the UK will not take part in future European Parliamentary elections. The provisions in UK law relating to European Parliamentary elections will therefore no longer be necessary.

2        Schedule 9 to the European Union (Withdrawal) Bill (“the Bill”) repeals the two main Acts governing the conduct of European Parliamentary elections: the European Parliamentary Elections Act 2002 and the European Parliament (Representation) Act 2003 (the “two European Parliamentary elections Acts”).

3        The Government intends to use the powers under clause 17 to make consequential provision to repeal and amend remaining provisions in primary legislation and, where appropriate, revoke and amend provisions in secondary legislation relating to European Parliamentary elections to ensure the existing law works effectively once the UK has left the EU, and the two European Parliamentary elections Acts have been repealed. The Government also intends to use the powers under clause 17 to make saving provision, where appropriate, in connection with the coming into force of the repeal of the European Parliamentary Elections Act 2002, and in particular the electoral regions defined within that Act.

4        This draft SI is being shared as an *illustrative sample* to show how the powers in the Bill may be used in relation to the legislation relating to European Parliamentary elections. It should not be taken as the final version.

5        The Regulations will include consequential repeals, revocations or amendments of a number of provisions in primary legislation and secondary legislation that relate to European Parliamentary elections. Examples of the changes which could be made by the Regulations are set out below.

6        In electoral legislation:

- in the Representation of the People Act 1985, the repeal of provisions relating to the franchise for European Parliamentary elections for peers who are British citizens overseas, and to providing for the poll at a European Parliamentary general election to be combined with the poll at a UK parliamentary or ordinary local government election;
- in the Political Parties, Elections and Referendums Act 2000, the repeal and amendment of provisions to remove European Parliamentary elections from the scope of that Act.

7        With regard to provisions in secondary legislation, examples which could be made include, so far as appropriate, provisions in respect of the combination of the

poll at a European Parliamentary election with the poll at other elections, and the revocation of a number of Regulations that provide further for the franchise and conduct of European Parliamentary elections in the UK, such as:

- The European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994;
- The European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001;
- The European Parliamentary Elections (Common Electoral Principles) Regulations 2004.

8 The Regulations also make changes to various other pieces of legislation that are appropriate as a consequence of the UK leaving the EU and the two European Parliamentary elections Acts being repealed, which relate only to the European Parliamentary elections, and have no wider policy impact. For example, certain sections in the Equality Act 2010 make reference to the European Parliament, an institution that will no longer be relevant to the UK once the UK leaves the EU. The Regulations will therefore repeal the following subsections in the Equality Act 2010:

- Section 104(8)(b) (selection of candidates);
- Section 106(5)(b) (information about diversity in range of candidates).

9 Section 104 of the Equality Act 2010 allows registered political parties to make arrangements in the selection of candidates for election (such as women-only short lists) to address the under-representation of people with particular protected characteristics. Subsection 8 lists the elected bodies that this applies to: including, at paragraph (b), the European Parliament. The Regulations will therefore remove subsection (8)(b). The rest of the section will be unaffected by this deletion, and will therefore continue to operate as now.

10 Both of the repeals to the Equality Act 2010 relate only to the European Parliament; the provisions in the Equality Act will remain unaffected as regards elections within the UK so that, for example, the use of women-only short lists to select candidates for the House of Commons, the Scottish Parliament, the National Assembly for Wales and specified local government bodies will continue to be entirely legal.