



Scottish Independence Referendum (Franchise) Act 2013 (repealed)

2013 asp 13

Application of Act

1 Application to independence referendum

- (1) This Act applies for the purposes of an independence referendum.
- (2) In this Act, an “independence referendum” means a referendum on the independence of Scotland held—
 - (a) in accordance with paragraph 5A of Part 1 of Schedule 5 to the Scotland Act 1998, and
 - (b) in pursuance of provision made by or under an Act of the Scottish Parliament.

Franchise at independence referendum

2 Those entitled to vote in an independence referendum

- (1) A person is entitled to vote in an independence referendum if, on the date on which the poll at the referendum is held, the person is—
 - (a) aged 16 or over,
 - (b) registered in either—
 - (i) the register of local government electors maintained under section 9(1)(b) of the 1983 Act for any area in Scotland, or
 - (ii) the register of young voters maintained under section 4 of this Act for any such area,
 - (c) not subject to any legal incapacity to vote (age apart), and
 - (d) a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union.
- (2) For the purposes of this Act, a person is, on any date, subject to a legal incapacity to vote if the person—
 - (a) would be legally incapable (whether by virtue of any enactment or any rule of law) of voting at a local government election in Scotland held on that date, or

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- (b) is legally incapable, by virtue of section 3, of voting in an independence referendum held on that date.

3 Offenders in prison etc. not to be entitled to vote

- (1) A convicted person is legally incapable of voting in an independence referendum for the period during which the person is detained in a penal institution in pursuance of the sentence imposed on the person.
- (2) A convicted person who is unlawfully at large at a time when the person would otherwise be detained as mentioned in subsection (1) is to be treated for the purposes of that subsection as being so detained at that time.
- (3) For the purposes of subsection (1)—
 - (a) a person detained for default in complying with a sentence is not to be treated as being detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, and
 - (b) a person detained by virtue of a conditional pardon in respect of an offence is to be treated as detained in pursuance of the sentence for the offence.
- (4) It does not matter for the purposes of subsection (1) whether a person was convicted, or a sentence imposed, before or after the commencement of this Act.
- (5) In this section—
 - “convicted person” means a person found guilty of an offence (whether under the law of any part of the United Kingdom or anywhere else) and—
 - (a) includes a person found guilty by a court of a service offence within the meaning of the Armed Forces Act 2006, but
 - (b) does not include a person dealt with by committal or other summary process for contempt of court,
 - “penal institution” means an institution to which the Prison Act 1952, the Prison Act (Northern Ireland) 1953 or the Prisons (Scotland) Act 1989 applies.

Register of young voters

4 Register of young voters

- (1) For the purposes of this Act, each registration officer must prepare and maintain, for the officer's area, a register to be known as the register of young voters.
- (2) The register must contain—
 - (a) the names of the persons appearing to the registration officer to be entitled to be registered in the register, and
 - (b) in relation to each person registered in it, the person's—
 - (i) date of birth,
 - (ii) (except where otherwise provided by an applied enactment) qualifying address, and
 - (iii) voter number.
- (3) Subsection (2) is subject to section 9B of the 1983 Act (anonymous registration).

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- (4) A person's qualifying address is the address in respect of which the person is entitled to be registered in the register.
- (5) A person's voter number is such number (with or without any letters) as is for the time being allocated by the registration officer to the person for the purposes of the register.

5 Those entitled to be registered in the register of young voters

- (1) A person is entitled to be registered in the register of young voters for any area if, on the relevant date, the person—
 - (a) is not registered in the register of local government electors for the area,
 - (b) meets the requirements (apart from any requirement as to age) for registration in the register of local government electors for the area, and
 - (c) has attained the age of 16, or will attain that age on or before the date on which the poll at an independence referendum is to be held.
- (2) In the case of a person who has not yet attained the age of 16—
 - (a) the person's entry in the register must state the date on which the person will attain the age of 16, and
 - (b) until that date, the person is not, by virtue of the entry, to be taken to be a voter for the purposes of any independence referendum other than one the date of the poll at which is on or after that date.
- (3) Where a person to whom subsection (2) applies has an anonymous entry in the register, the references in that subsection to the person's entry in the register are to be read as references to the person's entry in the record of anonymous entries.
- (4) In this section, “the relevant date” means—
 - (a) the date on which an application for registration in the register of young voters is made (or the date on which such an application is treated as made by virtue of section 10A(2) of the 1983 Act), or
 - (b) in the case of a person applying for registration in the register of young voters in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

6 Application of enactments relating to registration

- (1) The enactments specified in column 1 of the tables in Parts 2, 3 and 4 of schedule 1 apply in relation to registration in the register of young voters (and to that register) for any area in Scotland as they apply in relation to registration in the register of local government electors (and to that register) for that area, but subject to—
 - (a) the modifications in Part 1 of schedule 1,
 - (b) the modifications (if any) in the corresponding entries in column 2 of the tables, and
 - (c) any other necessary modifications.
- (2) References in this Act to any enactment applied by virtue of this section and schedule 1 are to the enactment as it had effect on the day on which the Bill for this Act was passed by the Parliament.
- (3) Subsection (2) does not apply to an enactment specified in Part 4 of schedule 1.

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7 Declaration of local connection: additional ground for young people

- (1) This section applies for the purposes of the application of section 7B of the 1983 Act (notional residence: declaration of local connection) in relation to registration in the register of young voters.
- (2) Section 7B of the 1983 Act also applies to a person who, on the date on which the person makes a declaration under subsection (1) of that section—
 - (a) has not attained the age of 17,
 - (b) does not fall within any of paragraphs (a) to (c) of subsection (2) of that section, and
 - (c) meets either of the requirements specified in subsection (3).
- (3) The requirements are that—
 - (a) the person is, or has been, a child looked after by a local authority, or
 - (b) the person is being kept in secure accommodation.
- (4) In relation to such a person, “the required address” for the purposes of section 7B of the 1983 Act is any address in Scotland at which the person has previously been resident.
- (5) In subsection (3)—
 - (a) the reference to a child looked after by a local authority is to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995 (duty of local authorities in relation to looked after children), and
 - (b) “secure accommodation” means accommodation provided, for the purpose of restricting the liberty of children, in an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) that—
 - (i) provides residential accommodation for children for the purposes of the Children's Hearings (Scotland) Act 2011, the Children (Scotland) Act 1995 or the Social Work (Scotland) Act 1968, and
 - (ii) is approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010 (regulations in relation to care services).

8 Register of young voters: canvass form

The form to be used for the purposes of the canvass under section 10(1) of the 1983 Act in relation to registration in the register of young voters is set out in schedule 2.

9 Register of young voters not to be published

- (1) A registration officer must not publish, or otherwise disclose to any person, the register of young voters or any entry in the register, except as provided by—
 - (a) this section, or
 - (b) an applied enactment.
- (2) The register, or an entry in it, may be disclosed to a person so far as necessary for the purpose of the carrying out by that person of any function in connection with registration in the register.

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- (3) The register, or an entry in it, may be disclosed to a person for the purposes of an independence referendum, but only in accordance with provision made by or under the Act of the Scottish Parliament by virtue of which the referendum is to be held.
- (4) The register, or an entry in it, may be disclosed to a person so far as necessary for the purposes of a criminal investigation or criminal proceedings relating to an offence (or alleged or suspected offence) under—
 - (a) an applied enactment, or
 - (b) the Act of the Scottish Parliament by virtue of which an independence referendum is held.
- (5) An entry in the register may be disclosed to the person to whom the entry relates.
- (6) In subsection (1), “registration officer” includes—
 - (a) any deputy of a registration officer,
 - (b) any person appointed to assist a registration officer in the carrying out of the registration officer's functions, and
 - (c) any person, in the course of the person's employment, assisting a registration officer in the carrying out of those functions.

Registration officers' expenses

10 Registration officers' expenses

- (1) Any expenses properly incurred by a registration officer that are attributable to the exercise of the registration officer's functions under this Act are to be paid by the Scottish Ministers.
- (2) Sums payable by the Scottish Ministers under subsection (1) are payable on the submission of an account for the sums to them by the registration officer.
- (3) If a registration officer requests from the Scottish Ministers an advance on account of any expenses referred to in subsection (1), the Scottish Ministers may make such advance on such terms as they think fit.

General

11 Power to make supplementary etc. provision and modifications

- (1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) The power in subsection (1) includes power to make provision in consequence of, or in connection with—
 - (a) any provision made, or proposed to be made, in an Act of the Scottish Parliament for the holding of an independence referendum,
 - (b) any modification, or proposed modification, of any enactment relating to the registration of electors for the purposes of local government elections in Scotland.
- (3) An order under subsection (1) may—

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- (a) modify any enactment (including this Act),
 - (b) apply any provision of any enactment (either with or without modifications),
 - (c) include supplementary, incidental, consequential, transitory or transitional provision or savings.
- (4) An order under subsection (1) is subject to the affirmative procedure.

12 Interpretation

(1) In this Act—

- “the 1983 Act” means the Representation of the People Act 1983,
- “anonymous entry” in relation to the register of young voters is to be construed in accordance with section 9B of the 1983 Act, and “record of anonymous entries” means the record prepared under regulation 45A of the Representation of the People (Scotland) Regulations 2001 (SI 2001/497),
- “applied enactment” means an enactment as applied for the purposes of this Act by virtue of section 6(1),
- “area”, in relation to a registration officer, means the area for which the officer acts in relation to the registration of local government electors,
- “declaration of local connection” means a declaration under section 7B of the 1983 Act,
- “local government election” has the meaning given in section 204(1) of the 1983 Act,
- “registration officer” means a registration officer appointed under section 8(3) of the 1983 Act,
- “relevant citizen of the European Union” means a citizen of the Union who is not a Commonwealth citizen or a citizen of the Republic of Ireland,
- “service declaration” means a declaration under section 15 of the 1983 Act.

- (2) In this Act, a reference to a provision of the 1983 Act that is applied for the purposes of this Act by virtue of section 6(1) is a reference to that provision as so applied.

13 Commencement

- (1) This Act comes into force on the day after Royal Assent.
- (2) Despite subsection (1), no application for registration in the register of young voters may be made before 1 October 2013.

14 Repeal

This Act ceases to have effect on 1 January 2015.

15 Short title

The short title of this Act is the Scottish Independence Referendum (Franchise) Act 2013.

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