

SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) ACT 2013

EXPLANATORY NOTES

BACKGROUND TO THE ACT

Schedule 1, Part 2

25. [Part 2](#) applies to the creation and maintenance of the RYV (with modifications where appropriate) provisions from the 1983 Act. Many of the modifications are simply to adapt the wording of provisions to the context of the RYV, or to avoid applying unnecessary subsections (for example, those that are relevant only to the registration of electors for parliamentary elections, rather than local government elections). So, for example, where references are made in the 1983 Act to provisions in that Act that are replicated in this Act, those references are modified to refer to the replicating provisions. In general, the arrangements for preparing and maintaining the RYV follow the arrangements that apply to the register of local government electors.
26. Sections 5 to 7A relate to residence, in particular how it is determined for people who are absent from their permanent place of residence for employment, educational or health reasons. Section 6 specifically provides for merchant seamen who are not resident in the UK and sections 7 and 7A provide for patients in mental hospitals and for persons on remand etc. (in particular, when they are to be regarded as resident at the hospital or place of detention).
27. Sections 7B and 7C relate to declarations of local connection, which a person can make to allow them to register at an address. Section 7B sets out what information a declaration must contain. Section 7C sets out the effect and duration of declarations of local connection. The modifications alter a requirement relating to age, because a person who has attained the age of 17 will be included in the canvass for the register of local government electors and, therefore, will not apply to be registered in the RYV. The modifications also remove irrelevant provision.
28. Section 9A requires EROs to take all necessary steps to maintain the RYV as set out in section 4 of the Act. The modifications remove provision relating to specific steps that have to be taken, as these would be more onerous than needed. (For example, if the section was applied in full, an ERO could be required to send reminders and make inquiries at an address where an RYV canvass form was not returned, even where the ERO had no reason to believe that a young person resided at that address.)
29. Sections 9B and 9C set out procedures for anonymous registration, which are to be the same as those that apply for anonymous registration in the register of local government electors.
30. [Section 10](#), as modified, will require EROs to conduct a canvass between 1 October 2013 to 10 March 2014 for the purpose of compiling the RYV, using the form set out in schedule 2. The modifications reflect that only a single canvass will be required, as the duty to maintain the RYV will cease from 1 January 2015, and that the canvass will not be concerned with whether electors remain on a register, but will be used to create the

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RYV. The omitted provision relates mainly to Northern Ireland and to overseas electors (who are not eligible to vote at local government elections). There is also omitted a provision that requires the canvass to be conducted by reference to residence on 15 October. Instead, it will be based simply on residence on the date the canvass form is received by the ERO (by virtue of section 10A as applied).

31. Section 10A requires EROs to determine all applications for registration in the RYV and provides for objections and for removal of entries in the RYV. The modifications provide that the date of application to the RYV is to be the date the canvass form is received by the Electoral Registration Officer, remove irrelevant provision relating to applications during canvass periods when a poll is pending and provide that objections to applications can be made by persons registered in the RYV, as well as persons registered in the local government electoral register. They also clarify that a reference to “voting age” is to be regarded as referring to voting age for the purposes of an independence referendum, i.e. 16 years of age.
32. Sections 13A and 13B set out arrangements for making alterations to the RYV, including specifying that in most cases such alterations must be made no later than five days before the referendum (ignoring weekends, bank holidays etc.) if they are to have effect for the referendum. After that date, and up to 9 pm on the day of the poll, the outcome of a registration appeal would still be actioned; also the ERO could correct a clerical error that was identified. The modifications mainly reflect the fact that the RYV will not be published and that there will only be one canvass to compile it; the modifications also omit irrelevant provision.
33. Section 13D provides an offence of knowingly providing an ERO with false information relating to the registration of electors on the RYV. The penalty for committing this offence may be imprisonment for up to 6 months or a fine of up to £5,000, or both. The omissions remove irrelevant provision about applications relating to absent voting, and subsections only relevant to Northern Ireland, England and Wales.
34. [Sections 14 to 17](#), supplemented by section 59, relate to service declarations and their effect. Service declarations are a means for certain people to register to vote when, because of the nature of their jobs (or the jobs of their spouses or civil partners), they may not be considered resident at an address in the UK. The following people can make a service declaration for the purposes of registering in the RYV:
 - members of the armed forces and their spouses or civil partners;
 - some Crown servants posted outside the UK (see paragraph 45);
 - employees of the British Council posted outside the UK;
 - spouses or civil partners who are residing outside the UK to be with those Crown servants or British Council employees.
35. [Section 52](#) enables deputies to act for an ERO in the discharge of registration duties and requires local authorities to assign persons to assist EROs in carrying out their functions under the Act. Some of the omitted provision relates to powers of the Secretary of State to issue directions to EROs, which it is considered unnecessary to replicate for the purposes of this Act. The remainder relates to England, Wales and Northern Ireland.
36. [Sections 56 and 57](#) provide for how any registration appeal in relation to the RYV would be heard. Appeal lies to the sheriff, and then on any point of law to a court comprised of three Court of Session judges (the Registration Appeal Court). The omitted provisions relate to appeals relating to absent voting applications and other material relating to the conduct of a poll, rather than compilation of a register of voters.
37. [Section 59](#) is an interpretative provision relating to “members of the forces”. The omitted provisions relate to the duties of UK Government departments and the British

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Council in relation to such persons, which it is unnecessary to apply given the timespan of the RYV.

38. [Section 62](#) provides that it is an offence for a person to make a declaration of local connection, to make or attest a service declaration, or to make a declaration for anonymous registration purposes when not entitled to do so, or when the person knows that it contains false information. A person committing such an offence is liable on summary conviction to a fine of up to £5,000. Subsection (2), which is relevant only to local government elections, is omitted.
39. [Section 63](#) provides that EROs and their deputies who breach their duties under the Act without reasonable cause are liable on summary conviction to a fine of up to £5,000. The omitted provisions relate to duties of other persons, and are therefore irrelevant for the purposes of this Act.