

SCOTTISH ELECTIONS (REDUCTION OF VOTING AGE) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Protection of Information

27. This portion of the Act makes provision about protecting information about children under 16 from publication, supply or disclosure. Sections 13 to 15 require to be read as a whole.
28. **Section 13** prevents electoral registration officers and persons assisting them (e.g. members of staff in their office or persons contracted to collect the information) from publishing, supplying or otherwise disclosing information relating to a young person under the age of 16. “Information” is any entry in the register of local government electors or in an absent voters record or list (as defined in subsection (2)), relating to the young person (typically their name, their address and the date they will attain the age of 16). Breach of this duty by a registration officer or their staff will be a criminal offence under section 63 of the 1983 Act.
29. **Section 14** sets out the circumstances in which the prohibition on publication, supply or disclosure of a young person’s details does not apply. Under section 14(1) the information can be supplied by electoral registration officers in connection with registration and electoral processes. Specifically this is where the supply is necessary among registration officer staff and returning officers. Section 14(2) provides that it may also be supplied in a pre-populated canvass form sent to a household, subject to the restriction made by section 2(2)(b) of the Act. Section 14(3) allows the information to be supplied in accordance with various enactments authorising supply in particular electoral contexts, but only for the purposes of an election at which the young person will be eligible to vote. These are:
- the supply is to a local authority returning officer for the purposes of an election to a National Park authority. In this case, the information can only be used for the purposes of a National Park authority election;
 - the supply is to the Electoral Commission. In this case, the Electoral Commission is only allowed to use the information in connection with its legal functions in relation to donation control and publication of information about electors, but the latter does not enable publication of the names and addresses of electors;
 - the supply is to candidates standing for election to the Scottish Parliament or as a councillor in local government (in which case the candidate can only be supplied with information about the young person for electoral purposes or to comply with the rules on political donations);
 - the supply is to returning officers for the purposes of Scottish Parliament or local government elections.

30. Under section 14(5), electoral registration officers may disclose information about a young person where the disclosure is necessary for the purposes of a criminal investigation or criminal proceedings (as long as the crime is connected with voter registration or the conduct of an election).
31. In the circumstances set out in section 14(1) or 14(5), the person to whom the information is disclosed commits a crime if they pass on the information to another person (unless that is specifically allowed under the provision in question).
32. The final circumstances in which electoral registration officers may disclose information about a young person is where the disclosure is to the young person themselves (section 14(6)), or to a person appointed by a young person as proxy to vote for them (section 14(8)). Section 14(7) provides that a registration officer must supply a young person's information, if it is requested by the young person for the purposes of verifying that they are a permissible donor under the terms of section 54(2) (a) of the Political Parties, Elections and Referendums Act 2000. That section provides that a person is a permissible donor if they are registered in an electoral register in the UK. This provides a means for a person who is under 16 to demonstrate that they are registered, should the person wish to be a donor.
33. **Section 15(1)** allows the Scottish Ministers to make regulations for or about the disclosure of information about young people.
34. **Section 15(2)** sets out a non-exhaustive list of the things that the regulations can include. These are:
 - the persons who can receive the information;
 - the allowable purposes for a disclosure;
 - restrictions on disclosure to, and access for, third parties or use for other purposes;
 - restrictions for those compiling the full register of electors.
35. **Section 15(3)** allows the regulations to change the circumstances set out in section 14 and to create criminal offences.
36. **Section 15(5) and (6)** require the Scottish Ministers to consult the Electoral Commission before making any regulations, which are subject to affirmative procedure in the Scottish Parliament