

SCOTTISH ELECTIONS (FRANCHISE AND REPRESENTATION) ACT 2020

EXPLANATORY NOTES

THE STRUCTURE AND SUMMARY OF THE ACT

Part 3 - Prisoners Etc.

Section 5 – Voting by convicted persons sentenced to terms of 12 months or less

15. Section 5 amends section 3 of the 1983 Act to provide an exception to the existing universal prohibition on “convicted persons” detained within a “penal institution” voting at any election in the UK. Section 3(2) of the 1983 Act defines a “convicted person” and a “penal institution” for the purposes of that prohibition.
16. Section 5(2) of the Act adds a reference to subsection (1) of section 3 of the 1983 Act to introduce the exception inserted by section 5(3) of the Act.
17. Section 5(3) of the Act inserts two new subsections into the 1983 Act. New subsection (1A) permits prisoners who have been sentenced to a term of imprisonment not exceeding 12 months to vote in Scottish local government elections. New subsection (1B) makes provision for prisoners serving consecutive or concurrent sentences which in total do not exceed 12 months. This applies where a person receives more than one sentence on the same occasion; or where a person is sentenced on separate occasions but is not released (other than on temporary release) for any period between the first occasion of sentencing and the last. For example, a person sentenced (at the same time) to a six month sentence and a seven month sentence, to be served concurrently, would be regarded for the purposes of this section as serving a total term of seven months and would therefore be covered by new subsection (1A). A prisoner sentenced to two sentences of seven months that are to run consecutively would not be able to vote whilst in prison, as for the purposes of the section they would be considered to be serving a single term of 14 months.
18. Section 11 of the 1998 Act provides that the franchise for local government elections in Scotland also applies at Scottish Parliament elections. Additionally, it is used for national park elections (Schedule 1 of the National Parks (Scotland) Act 2000). As a result of the changes to section 3 of the 1983 Act, prisoners who have been sentenced to a term of imprisonment not exceeding 12 months will also be able to vote in Scottish Parliament and national park elections.