

# **SCOTTISH ELECTIONS (FRANCHISE AND REPRESENTATION) ACT 2020**

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## **EXPLANATORY NOTES**

### **THE STRUCTURE AND SUMMARY OF THE ACT**

#### **Part 3 - Prisoners Etc.**

##### ***Section 8 - Residence of convicted persons in prison etc.: notional residence***

21. Section 8 amends several sections of the 1983 Act that deal with the situation of a prisoner who is eligible to register to vote but who is not entitled to be registered by virtue of residence (including by virtue of new section 7AA) at any place other than the penal institution at which they are detained.
22. Subsection (2) makes a number of amendments to section 7B of the 1983 Act. New subsection (2D) allows convicted persons enfranchised by the Act to register to vote via a declaration of local connection. A declaration of local connection must state, amongst other things, a “required address” (as defined in section 7B(4)). Prisoners may need to register via declaration of local connection if they do not have a fixed abode or are prohibited from returning to their previous registered address.
23. New paragraph (d) of subsection (4) is added to section 7B of the 1983 Act to define the required address which a convicted person must specify in making a declaration of local connection. It is intended that the prisoner will not be listed on the electoral register as being registered at a particular address but will be listed as registered within the relevant ward or constituency. In the first instance, prisoners should register with reference to an address where they would be residing but for their detention. If that is not possible, they can register with reference to an address at which they were resident immediately before being detained (this includes the address of, or which is nearest to, a place in Scotland where the person commonly spent a substantial part of their time if they had been homeless immediately before being detained) but it cannot be the address of a penal institution. If neither of these are possible, or the prisoner could only give an address from which they are prevented from residing at because of an order of any court, a prisoner can register to vote by a declaration of local connection with reference to the prison as the “required address.” However, a person cannot specify the prison as the “required” address if they have a home outwith Scotland or would otherwise not be resident in Scotland but for their detention. This is to ensure that only a prisoner with a connection to Scotland can specify the prison as the “required address” for the purpose of making a declaration of local connection.