

SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) ACT 2013

EXPLANATORY NOTES

BACKGROUND TO THE ACT

Franchise at independence referendum

Those entitled to vote in an independence referendum

7. [Section 2](#) sets out who can vote in an independence referendum. Eligibility to vote is based on the franchise at Scottish Parliament and local government elections (which is set out in section 2 of the 1983 Act).
8. [Section 2](#) provides that those registered as a local government elector in Scotland will be eligible to vote in an independence referendum, provided they are not subject to any legal incapacity. The Act also extends entitlement to vote in a referendum to those aged at least 16 who would be eligible to register as local government electors if they had attained the qualifying age for that register. These younger voters will require to be registered in the Register of Young Voters (RYV) (see section 4 of the Act) to be eligible to vote at an independence referendum.
9. The eligibility criteria for registration as a local government elector are set out at section 4 of the 1983 Act and are that, on the date the person applies to register or makes a declaration that relates to their application:
 - the person is resident in the electoral area the register applies to (or able to use a service declaration or a declaration of local connection to register there);
 - the person is not subject to a legal incapacity to vote. Incapacity applies to persons who do not meet the citizenship rule, to convicted persons while they are detained or unlawfully at large, and to anyone found guilty of a corrupt or illegal electoral practice in the previous five years;
 - the person is a qualifying Commonwealth citizen, a citizen of the Irish Republic or a citizen of the European Union (a qualifying Commonwealth citizen is a person who does not require leave to enter or remain in the UK, or who has such leave; other Commonwealth citizens cannot register to vote); and
 - the person is of voting age, which in practice means that they have to reach age 18 during the currency of the register.

Offenders in prison etc. not to be entitled to vote

10. [Section 3](#) provides that convicted prisoners who are detained in a penal institution are debarred from voting in an independence referendum. Prisoners held on remand who have not been convicted will be able to vote, although they will need to do so using a postal or proxy vote. This is identical to provision made, in relation to parliamentary and local government elections, by section 3 of the 1983 Act. It has been included in

*These notes relate to the Scottish Independence Referendum (Franchise)
Act 2013 (asp 13) which received Royal Assent on 7 August 2013*

this Act because the UK Parliament is considering proposals to alter section 3 of the 1983 Act and the Scottish Government would not wish any alteration to apply for the purposes of an independence referendum.