

Scottish Elections (Reduction of Voting Age) Bill

[AS INTRODUCED]

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Explanatory Notes, together with other accompanying documents, are printed separately as SP Bill 66-EN. A Policy Memorandum is printed separately as SP Bill 66-PM.

Scottish Elections (Reduction of Voting Age) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to reduce the voting age to 16 at elections for membership of the Scottish Parliament and local government elections; and for connected purposes.

Reduction of voting age

1 Scottish elections: reduction of voting age to 16

- 5 (1) In section 2 of the Representation of the People Act 1983 (“the 1983 Act”) (local government electors)—
- (a) in subsection (1)(d), after “over” insert “, except in Scotland (see subsection (1A))”,
- (b) after subsection (1) insert—
- 10 “(1A) In Scotland, voting age is 16 years or over.”.
- (2) The amendments made by subsection (1) have effect for the purposes of—
- (a) an election for membership of the Scottish Parliament (by virtue of section 11 of the Scotland Act 1998) at which the poll is to be held on or after 5 April 2016,
- (b) a local government election at which the poll is to be held on or after 5 May 2016,
- 15 (c) any other relevant election at which the poll is to be held on or after 5 May 2016.
- (3) In subsection (2)(c), “other relevant election” means an election (other than one mentioned in subsection (2)(a) or (b)) to which section 2 of the 1983 Act applies for the purpose of determining entitlement to vote at the election.

Registration of electors

2 Annual canvass

- 20 (1) In section 9A of the 1983 Act (registration officers: duty to take necessary steps), after subsection (2) insert—
- “*(2A)* In relation to the registration of local government electors in Scotland, subsections (1) and (2)(b) do not require a registration officer to make house to
- 25 house inquiries in relation to any person under the age of 16.”.

- (2) In regulation 32ZA of the Representation of the People (Scotland) Regulations 2001 (“the 2001 Regulations”) (canvass form), after paragraph (3) insert—

“(3A) In relation to the registration of local government electors, the canvass form in paragraph (2) must also—

- (a) require the full name and nationality of each person aged 14 or 15 who is eligible to register and is residing at the address to which the form is given, and
- (b) in relation to any such person named in the form, require the person’s date of birth to be included.”.

3 Invitations to register

- (1) In section 9E of the 1983 Act (maintenance of registers: invitations to register in Great Britain), after subsection (7) insert—

“(7A) In relation to the registration of local government electors in Scotland, subsection (7) does not apply to a person who was under the age of 16 at the time the requirement was imposed.”.

- (2) In regulation 32ZC of the 2001 Regulations (invitations to apply for registration), after paragraph (2) insert—

“(2A) In relation to the registration of local government electors, where the person to be invited is under the age of 16, the invitation in paragraph (1) must also include an explanation of how the person’s information will be held and used.”.

- (3) In regulation 32ZD of the 2001 Regulations (steps to be taken by a registration officer to encourage a person to make an application for registration in response to an invitation to do so), after paragraph (3) insert—

“(3A) In relation to the registration of local government electors, paragraph (3) does not require a registration officer to make, or have made, any visits in the case where the invitations were given to a person under the age of 16.”.

- (4) In regulation 32ZE of the 2001 Regulations (requiring a person to make an application for registration), after paragraph (3) insert—

“(3A) In relation to the registration of local government electors, the following provisions of this regulation do not apply in the case of a person who is under the age of 16—

- (a) paragraphs (2)(b)(iii) and (3)(b) and (c),
- (b) paragraph (3)(f), so far as requiring a notice to state that the person may make representations about why a civil penalty should not be imposed.”.

4 Invitations to register: further provision for persons aged under 16

- (1) In relation to the registration of local government electors, the Scottish Ministers may by regulations make provision about invitations to be given under section 9E(1) of the 1983 Act (invitations to apply for registration) to persons under the age of 16.

- (2) Regulations under subsection (1) may, in particular, include provision—

- (a) about the form and contents of invitations,

(b) about the giving of invitations (for example, about the manner in which they must be given or how often they must be given),

(c) requiring invitations to be accompanied by, or combined with, application forms or other documents (including partially completed application forms).

5 (3) Regulations under subsection (1) may confer functions on the Electoral Commission (for example, the Commission may be required to design an invitation).

(4) Regulations under subsection (1) may—

(a) make incidental, supplemental, consequential, transitional, transitory or saving provision,

10 (b) modify any enactment.

(5) Before making regulations under subsection (1), the Scottish Ministers must consult the Electoral Commission.

(6) Regulations under subsection (1) are subject to the affirmative procedure.

5 Applications for registration

15 (1) The 2001 Regulations are amended in accordance with this section.

(2) In regulation 26 (applications for registration)—

(a) after paragraph (3) insert—

20 “(3A) In relation to the registration of local government electors, the paper application form under paragraph (3) must also include an explanation of how information about applicants under the age of 16 will be held and used.”,

(b) after paragraph (9) insert—

“(9A) In relation to the registration of local government electors, paragraphs (1)(f), (8)(a) and (9) do not apply in the case where the applicant is under the age of 16.”.

25 (3) In regulation 26B (power to request additional evidence where certain information is unavailable or where the registration officer considers it necessary), after paragraph (6) insert—

“(6A) In relation to the registration of local government electors, paragraphs (2) to (6) do not apply in the case where the applicant is under the age of 16 if—

30 (a) there is information available to the registration officer from any educational record relating to the applicant, and

(b) that information is sufficient to satisfy the registration officer as to the applicant’s identity and entitlement to be registered.”.

(4) In regulation 28 (inspection of applications and objections), after paragraph (2) insert—

35 “(3) In relation to the registration of local government electors, this regulation does not apply to an application made by a person under the age of 16.”.

(5) In regulation 29ZA (verification of information provided in an application), after paragraph (6) insert—

40 “(6A) In relation to the registration of local government electors, this regulation does not apply to an application made by a person under the age of 16.”.

6 Review of entitlement to registration

- (1) The 2001 Regulations are amended in accordance with this section.
- (2) In regulation 31D (procedure for reviewing entitlement to registration), after paragraph (3) insert—

5 “(3A) In relation to the registration of local government electors, paragraph (2)(b) does not apply where the subject of the review is under the age of 16.”

- (3) In regulation 31E (list of reviews), after paragraph (4) insert—

10 “(5) In relation to the registration of local government electors, this regulation does not apply to any review where the subject of the review is under the age of 16.”

7 Anonymous registration

In regulation 31J of the 2001 Regulations (anonymous registration: evidence by attestation), after paragraph (4) insert—

15 “(5) In relation to the registration of local government electors, where the applicant is under the age of 16 on the date on which the application is made—

(a) “qualifying officer” also includes a person authorised in writing for the purposes of this regulation by an officer referred to in paragraph (4)(f), and

20 (b) where the attestation is signed by a person so authorised, the attestation must be accompanied by a copy of the person’s authorisation.”

8 Declarations of local connection

- (1) Section 7B of the 1983 Act (notional residence: declarations of local connection) is amended in accordance with this section.

- (2) After subsection (2) insert—

25 “(2A) In relation to the registration of local government electors in Scotland, this section also applies to a person who, on the date on which the person makes a declaration under subsection (1)—

(a) is under the age of 16,

(b) does not fall within any of paragraphs (a) to (c) of subsection (2), and

30 (c) meets either of the requirements specified in subsection (2B).

(2B) The requirements are that—

(a) the person is, or has been, a child looked after by a local authority, or

(b) the person is being kept in secure accommodation.

(2C) For the purposes of subsection (2B)—

35 (a) the reference to a child looked after by a local authority is to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995 (duty of local authorities in relation to looked after children), and

(b) “secure accommodation” means accommodation provided, for the purpose of restricting the liberty of children, in an establishment in Scotland (whether managed by a local authority, a voluntary organisation or any other person) that—

(i) provides residential accommodation for children for the purposes of the Children’s Hearings (Scotland) Act 2011, the Children (Scotland) Act 1995 or the Social Work (Scotland) Act 1968, and

(ii) is approved in accordance with regulations made under section 78(2) of the Public Services Reform (Scotland) Act 2010 (regulations in relation to care services).”

(3) In subsection (4), after paragraph (b) insert—

“(c) in the case of a person falling within subsection (2A), any address in Scotland at which the person has previously been resident.”

(4) After subsection (7) insert—

“(7A) Despite anything in subsection (7), in relation to Scotland, a relevant declaration made by a person has effect only for the purposes of the person’s registration as a local government elector.

(7B) In subsection (7A), “relevant declaration” means—

(a) a declaration of local connection made by virtue of subsection (2A),

(b) any other declaration of local connection made by a person who, on the date on which the declaration is made, is—

(i) under the age of 17, and

(ii) not entitled to be registered in the register of parliamentary electors.

(7C) A relevant declaration referred to in subsection (7A) must be marked to show that it is available only for the purposes of registration as a local government elector, but otherwise is to be the same as other declarations of local connection.”

9 Service declarations

(1) The 1983 Act is amended in accordance with this section.

(2) In section 14 (service qualification), after subsection (1) insert—

“(1A) In relation to the registration of local government electors in Scotland, a person also has a service qualification for the purposes of this Act if—

(a) the person is under the age of 18,

(b) a parent or guardian of the person has a service qualification under any of paragraphs (a) to (e) of subsection (1), and

(c) the person is residing at a particular place in order to be with that parent or guardian.”

(3) In section 15 (service declaration)—

(a) after subsection (3) insert—

“(3A) In relation to the registration of local government electors in Scotland, a service declaration made by a person by virtue of a service qualification under section 14(1A) ceases to have effect when the person attains the age of 18.

(3B) Without prejudice to subsection (2), a person registered in a register of local government electors in Scotland in pursuance of a service declaration referred to in subsection (3A) ceases to be entitled to remain so registered when the person attains the age of 18.

(3C) Where a person’s entitlement to remain registered ceases under subsection (3B), the registration officer must remove the person’s entry from the register.”

(b) after subsection (5) insert—

“(5A) Despite anything in subsection (5), in relation to Scotland, a relevant service declaration made by a person has effect only for the purposes of the person’s registration as a local government elector.

(5B) In subsection (5A), “relevant service declaration” means—

(a) a service declaration made by virtue of a service qualification under section 14(1A),

(b) any other service declaration made by a person who, on the date on which the declaration is made, is—

(i) under the age of 17, and

(ii) not entitled to be registered in the register of parliamentary electors.

(5C) A relevant service declaration referred to in subsection (5A) must be marked to show that it is available only for the purposes of registration as a local government elector, but otherwise is to be the same as other service declarations.”

(4) In section 16 (contents of service declaration)—

(a) the existing text becomes subsection (1),

(b) after that subsection insert—

“(2) In relation to the registration of local government electors in Scotland, a service declaration made by a person claiming to have a service qualification under section 14(1A) does not require to be attested.”

(5) In section 17 (effect of service declaration), after subsection (2) insert—

“(3) In relation to the registration of local government electors in Scotland, subsection (2) is subject to section 15(3A).”

10 Contents of service declarations

(1) The 2001 Regulations are amended in accordance with this section.

(2) In regulation 15 (contents of service declaration), after paragraph (1) insert—

“(1A) In relation to the registration of local government electors, paragraph (1)(c) does not apply in a case where the declarant claims a service qualification under section 14(1A) of the 1983 Act (see instead regulation 15A).”

(3) After regulation 15 insert—

“15A Contents of service declaration: declarant with a service qualification under section 14(1A) of the 1983 Act

- 5 (1) In relation to the registration of local government electors, a service declaration by a person claiming a service qualification under section 14(1A) of the 1983 Act must include, in addition to the matters specified in regulation 15(1)(a) and (b), such of the particulars specified in paragraph (2), (3) or (4) as are relevant to the declarant.
- 10 (2) Where the declarant claims a service qualification on the grounds that a parent or guardian of the declarant is a member of the forces (within the meaning of section 59(1) of the 1983 Act) or the spouse or civil partner of such a member, the declaration must state—
- 15 (a) the service (whether naval, military or air forces) in which the member serves,
- (b) the rank or rating of the member,
- (c) the service number of the member, and
- (d) where the member serves in the military forces, the regiment or corps in which the member serves.
- 20 (3) Where the declarant claims a service qualification on the grounds that a parent or guardian of the declarant is a Crown servant to whom regulation 14 applies or the spouse or civil partner of such a servant, the declaration must state—
- (a) the name of the Government department or part of the Scottish Administration in which the servant works,
- (b) a description of the post of the servant, and
- 25 (c) any staff number, payroll number or other similar identifying number of the servant.
- (4) Where the declarant claims a service qualification on the grounds that a parent or guardian of the declarant is a British Council employee or the spouse or civil partner of such an employee, the declaration must state—
- 30 (a) a description of the post of the employee, and
- (b) any staff number, payroll number or other similar identifying number of the employee.”.

11 Service declarations: further provision

- (1) The 2001 Regulations are amended in accordance with this section.
- 35 (2) In regulation 25 (reminders to electors registered pursuant to a declaration), after paragraph (4) insert—
- “ (5) In relation to the registration of local government electors, paragraphs (6) and (7) apply in the case of a person registered in pursuance of a service declaration made by virtue of a service qualification under section 14(1A) of the 1983 Act.
- 40 (6) The registration officer must send to the person a reminder that the person’s declaration will cease to have effect, and that the person’s entitlement to remain registered will cease, when the person attains the age of 18.

(7) The reminder must be sent as soon as practicable within the period of 3 months ending on the day on which the person attains the age of 18.”

(3) In regulation 26B (power to request additional evidence where certain information is unavailable or where the registration officer considers it necessary)—

5 (a) in paragraph (7), after sub-paragraph (c) insert—

“(ca) in relation to the registration of local government electors, a service declaration on the grounds that the applicant has a service qualification under section 14(1A) of the 1983 Act;”,

(b) after paragraph (9) insert—

10 “(9A) In the case of an application in pursuance of a service declaration within paragraph (7)(ca), the registration officer may require that the applicant give the officer one of the following documents or a copy of one of them certified by a relevant official—

(a) the applicant’s passport, or

15 (b) the applicant’s identity card issued in the European Economic Area.

(9B) In paragraph (9A), “relevant official” means—

(a) a Crown Servant (within the meaning of regulation 14),

(b) a British Council employee, or

20 (c) an officer of the forces (within the meaning of section 59(1) of the 1983 Act),

who is not the applicant’s parent, guardian, spouse or civil partner.”.

Publication etc. of the register

12 Protection of information about persons aged under 16

25 (1) A registration officer must not publish, supply or otherwise disclose a young person’s information, except in accordance with—

(a) section 13, or

(b) regulations under section 14.

(2) In this section and sections 13 and 14—

30 (a) “a young person’s information” means any entry in the register of local government electors relating to a person who, at the time of the publication, supply or other disclosure, is under the age of 16,

(b) references to the register of local government electors include references to any notice of an alteration in the register under section 13A(2), 13AB(2) or 13B(3), (3B) or (3D) of the 1983 Act, and

35 (c) “registration officer” includes—

(i) a deputy of a registration officer,

(ii) a person appointed to assist a registration officer in the carrying out of the registration officer’s functions, and

40 (iii) a person, in the course of the person’s employment, assisting a registration officer in the carrying out of those functions.

13 Exceptions from prohibition on disclosure

- (1) A young person's information may be disclosed to any person so far as necessary for the purpose of the carrying out by that person of functions in connection with—
- (a) the registration of electors, or
 - (b) the conduct of an election.
- (2) A young person's information (other than any information by which the person's date of birth may be ascertained) may be disclosed in a version or copy of the register of local government electors supplied in accordance with a relevant supply enactment, but only so far as it is necessary to do so for the purposes of or in connection with an election at which the young person will be entitled to vote.
- (3) In subsection (2), "relevant supply enactment" means—
- (a) regulation 97A of the 2001 Regulations (supply for the purposes of National Park authority elections),
 - (b) regulation 99 of the 2001 Regulations (supply to the Electoral Commission),
 - (c) regulation 103 of the 2001 Regulations (supply to holders of relevant elective offices and candidates) so far as applying to candidates at local government elections,
 - (d) regulation 107 of the 2001 Regulations (supply to candidates), so far as applying to candidates at local government elections,
 - (e) regulation 101 of the 2001 Regulations (general provision) so far as relating to regulations 103 and 107,
 - (f) any enactment making provision equivalent to that in regulation 97(3) of the 2001 Regulations in relation to elections for membership of the Scottish Parliament or local government elections,
 - (g) any enactment making provision equivalent to that in regulations 103 and 107 (and regulation 101 so far as relating to those regulations) of the 2001 Regulations (as those regulations apply to candidates at local government elections) in relation to elections for membership of the Scottish Parliament.
- (4) A young person's information may be disclosed to any person so far as necessary for the purposes of a criminal investigation or criminal proceedings relating to an offence (or alleged offence) under any enactment relating to—
- (a) the registration of electors, or
 - (b) the conduct of elections.
- (5) A young person's information may be disclosed to the person to whom it relates.
- (6) A person to whom a young person's information is disclosed under subsection (1) or (4) must not disclose the information to another person, except as mentioned in that subsection.
- (7) A person who contravenes subsection (6) commits an offence.
- (8) A person who commits an offence under subsection (7) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

14 Further provision for exceptions

- (1) The Scottish Ministers may by regulations make provision for or about the disclosure of a young person's information.
- (2) Regulations under subsection (1) may, in particular, include provision—
- 5 (a) authorising or requiring registration officers to supply or otherwise disclose any young person's information to such persons as may be specified in the regulations,
- (b) specifying, in relation to any description of persons specified in the regulations in pursuance of paragraph (a), the purposes for which any young person's information supplied or otherwise disclosed may be used,
- 10 (c) imposing prohibitions or restrictions relating to the extent (if any) to which persons to whom any young person's information is supplied or otherwise disclosed (whether in accordance with the regulations or otherwise) may—
- (i) supply or otherwise disclose the information to other persons,
- (ii) make use of the information otherwise than for any purposes specified in the regulations or for which the information has been supplied or otherwise disclosed in accordance with the regulations,
- 15 (d) imposing prohibitions or restrictions corresponding to those which may be imposed by virtue of paragraph (c) in relation to—
- (i) persons to whom any young person's information has been supplied or otherwise disclosed in accordance with regulations made in pursuance of paragraph (c) or this paragraph, or
- 20 (ii) persons who otherwise have access to any young person's information,
- (e) imposing, in relation to persons involved in the preparation of the full register of local government electors, prohibitions with respect to supplying copies of the full register and disclosing any young person's information contained in it.
- 25 (3) Regulations under subsection (1) may—
- (a) make different provision for different purposes,
- (b) modify section 13,
- (c) make provision by reference to other enactments relating to the supply or disclosure of the register of local government electors, or copies of it or entries in it,
- 30 (d) provide for the creation of criminal offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale.
- (4) Regulations under subsection (1) may make incidental, supplemental, consequential, transitional, transitory or saving provision.
- 35 (5) Before making regulations under subsection (1), the Scottish Ministers must consult—
- (a) the Electoral Commission,
- (b) such other persons as the Scottish Ministers consider appropriate.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.

*Looked after children***15 Looked after children: promoting awareness and providing assistance**

- (1) Each local authority must—
- 5 (a) promote awareness among children who are looked after by the authority of the arrangements for registration as local government electors that apply to the children, and
- (b) take such action as the authority considers necessary to help such children register as local government electors.
- 10 (2) The reference in subsection (1) to children looked after by a local authority is to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995 (duty of local authorities in relation to looked after children).

*General***16 Interpretation**

In this Act—

15 “the 1983 Act” means the Representation of the People Act 1983,

“the 2001 Regulations” means the Representation of the People (Scotland) Regulations (SI 2001/497),

“local government election” has the meaning given in section 204(1) of the 1983 Act,

20 “register of local government electors” means the register of local government electors maintained under section 9(1)(b) of the 1983 Act,

“registration officer” means a registration officer appointed under section 8(3) of the 1983 Act.

17 Ancillary provision

- 25 (1) The Scottish Ministers may by regulations make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- 30 (2) The power in subsection (1) includes power to make provision in consequence of, or in connection with, any modification or proposed modification of any enactment relating to the registration of electors.
- (3) Regulations under subsection (1) may—
- (a) make different provision for different purposes,
- (b) modify any enactment, including this Act.
- 35 (4) Regulations under subsection (1) are—
- (a) subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act,
- (b) otherwise subject to the negative procedure.

18 Commencement

This Act comes into force on the day after Royal Assent.

19 Short title

The short title of this Act is the Scottish Elections (Reduction of Voting Age) Act 2015.

Scottish Elections (Reduction of Voting Age) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to reduce the voting age to 16 at elections for membership of the Scottish Parliament and local government elections; and for connected purposes.

Introduced by: John Swinney
On: 2 April 2015
Bill type: Government Bill

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Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by APS
Group Scotland.

ISBN 978-1-78568-374-9