Passage of the

Scottish Independence Referendum (Franchise) Bill 2013

SPPB 192
Passage of the

Scottish Independence Referendum (Franchise) Bill 2013

SP Bill 24 (Session 4), subsequently 2013 asp 13

SPPB 192

EDINBURGH: APS GROUP SCOTLAND
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Foreword

Purpose of the series

The aim of this series is to bring together in a single place all the official Parliamentary documents relating to the passage of the Bill that becomes an Act of the Scottish Parliament (ASP). The list of documents included in any particular volume will depend on the nature of the Bill and the circumstances of its passage, but a typical volume will include:

- every print of the Bill (usually three – “As Introduced”, “As Amended at Stage 2” and “As Passed”);
- the accompanying documents published with the “As Introduced” print of the Bill (and any revised versions published at later Stages);
- every Marshalled List of amendments from Stages 2 and 3;
- every Groupings list from Stages 2 and 3;
- the lead Committee’s “Stage 1 report” (which itself includes reports of other committees involved in the Stage 1 process, relevant committee Minutes and extracts from the Official Report of Stage 1 proceedings);
- the Official Report of the Stage 1 and Stage 3 debates in the Parliament;
- the Official Report of Stage 2 committee consideration;
- the Minutes (or relevant extracts) of relevant Committee meetings and of the Parliament for Stages 1 and 3.

All documents included are re-printed in the original layout and format, but with minor typographical and layout errors corrected. An exception is the groupings of amendments for Stage 2 and Stage 3 (a list of amendments in debating order was included in the original documents to assist members during actual proceedings but is omitted here as the text of amendments is already contained in the relevant marshalled list).

Where documents in the volume include web-links to external sources or to documents not incorporated in this volume, these links have been checked and are correct at the time of publishing this volume. The Scottish Parliament is not responsible for the content of external Internet sites. The links in this volume will not be monitored after publication, and no guarantee can be given that all links will continue to be effective.

Documents in each volume are arranged in the order in which they relate to the passage of the Bill through its various stages, from introduction to passing. The Act itself is not included on the grounds that it is already generally available and is, in any case, not a Parliamentary publication.

Outline of the legislative process

Bills in the Scottish Parliament follow a three-stage process. The fundamentals of the process are laid down by section 36(1) of the Scotland Act 1998, and amplified by Chapter 9 of the Parliament’s Standing Orders. In outline, the process is as follows:
• Introduction, followed by publication of the Bill and its accompanying documents;
• Stage 1: the Bill is first referred to a relevant committee, which produces a report informed by evidence from interested parties, then the Parliament debates the Bill and decides whether to agree to its general principles;
• Stage 2: the Bill returns to a committee for detailed consideration of amendments;
• Stage 3: the Bill is considered by the Parliament, with consideration of further amendments followed by a debate and a decision on whether to pass the Bill.

After a Bill is passed, three law officers and the Secretary of State have a period of four weeks within which they may challenge the Bill under sections 33 and 35 of the Scotland Act respectively. The Bill may then be submitted for Royal Assent, at which point it becomes an Act.

Standing Orders allow for some variations from the above pattern in some cases. For example, Bills may be referred back to a committee during Stage 3 for further Stage 2 consideration. In addition, the procedures vary for certain categories of Bills, such as Committee Bills or Emergency Bills. For some volumes in the series, relevant proceedings prior to introduction (such as pre-legislative scrutiny of a draft Bill) may be included.

The reader who is unfamiliar with Bill procedures, or with the terminology of legislation more generally, is advised to consult in the first instance the Guidance on Public Bills published by the Parliament. That Guidance, and the Standing Orders, are available for sale from Stationery Office bookshops or free of charge on the Parliament’s website (www.scottish.parliament.uk).

The series is produced by the Legislation Team within the Parliament’s Chamber Office. Comments on this volume or on the series as a whole may be sent to the Legislation Team at the Scottish Parliament, Edinburgh EH99 1SP.

Notes on this volume

The Bill to which this volume relates followed the standard 3 stage process described above.

The Finance Committee’s letter to the lead committee at Stage 1 did not include the oral and written evidence received by the Committee. This material was originally published on the web only, and is now included in full in this volume.

The Subordinate Legislation Committee’s report at Stage 1 is included at Annexe A of the lead committee’s report. The Subordinate Legislation Committee did not take oral evidence on the Bill and agreed its report without debate. No extracts from the minutes or the Official Report of the relevant meeting of the Committee are, therefore, included in this volume.
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Scottish Independence Referendum (Franchise) Bill
[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland, including provision for the establishment of a register of young voters for the purposes of such a referendum.

Application of Act

1 Application to independence referendum

(1) This Act applies for the purposes of an independence referendum.

(2) In this Act, an “independence referendum” means a referendum on the independence of Scotland held—

(a) in accordance with paragraph 5A of Part 1 of Schedule 5 to the Scotland Act 1998, and

(b) in pursuance of provision made by or under an Act of the Scottish Parliament.

Franchise at independence referendum

2 Those entitled to vote in an independence referendum

(1) A person is entitled to vote in an independence referendum if, on the date on which the poll at the referendum is held, the person is—

(a) aged 16 or over,

(b) registered in either—

(i) the register of local government electors maintained under section 9(1)(b) of the 1983 Act for any area in Scotland, or

(ii) the register of young voters maintained under section 4 of this Act for any such area,

(c) not subject to any legal incapacity to vote (age apart), and

(d) a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union.
(2) For the purposes of this Act, a person is, on any date, subject to a legal incapacity to vote if the person—

(a) would be legally incapable (whether by virtue of any enactment or any rule of law) of voting at a local government election in Scotland held on that date, or

(b) is legally incapable, by virtue of section 3, of voting in an independence referendum held on that date.

3 Offenders in prison etc. not to be entitled to vote

(1) A convicted person is legally incapable of voting in an independence referendum for the period during which the person is detained in a penal institution in pursuance of the sentence imposed on the person.

(2) A convicted person who is unlawfully at large at a time when the person would otherwise be detained as mentioned in subsection (1) is to be treated for the purposes of that subsection as being so detained at that time.

(3) For the purposes of subsection (1)—

(a) a person detained for default in complying with a sentence is not to be treated as being detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, and

(b) a person detained by virtue of a conditional pardon in respect of an offence is to be treated as detained in pursuance of the sentence for the offence.

(4) It does not matter for the purposes of subsection (1) whether a person was convicted, or a sentence imposed, before or after the commencement of this Act.

(5) In this section—

“convicted person” means a person found guilty of an offence (whether under the law of any part of the United Kingdom or anywhere else) and—

(a) includes a person found guilty by a court of a service offence within the meaning of the Armed Forces Act 2006, but

(b) does not include a person dealt with by committal or other summary process for contempt of court,

“penal institution” means an institution to which the Prison Act 1952, the Prison Act (Northern Ireland) 1953 or the Prisons (Scotland) Act 1989 applies.

Register of young voters

(1) For the purposes of this Act, each registration officer must prepare and maintain, for the officer’s area, a register to be known as the register of young voters.

(2) The register must contain—

(a) the names of the persons appearing to the registration officer to be entitled to be registered in the register, and

(b) in relation to each person registered in it, the person’s—

(i) date of birth,
(ii) (except where otherwise provided by an applied enactment) qualifying address, and

(iii) voter number.

(3) Subsection (2) is subject to section 9B of the 1983 Act (anonymous registration).

(4) A person’s qualifying address is the address in respect of which the person is entitled to be registered in the register.

(5) A person’s voter number is such number (with or without any letters) as is for the time being allocated by the registration officer to the person for the purposes of the register.

5 Those entitled to be registered in the register of young voters

(1) A person is entitled to be registered in the register of young voters for any area if, on the relevant date, the person—

(a) is not registered in the register of local government electors for the area,

(b) meets the requirements (apart from any requirement as to age) for registration in the register of local government electors for the area, and

(c) has attained the age of 16, or will attain that age on or before the date on which the poll at an independence referendum is to be held.

(2) In the case of a person who has not yet attained the age of 16—

(a) the person’s entry in the register must state the date on which the person will attain the age of 16, and

(b) until that date, the person is not, by virtue of the entry, to be taken to be a voter for the purposes of any independence referendum other than one the date of the poll at which is on or after that date.

(3) Where a person to whom subsection (2) applies has an anonymous entry in the register, the references in that subsection to the person’s entry in the register are to be read as references to the person’s entry in the record of anonymous entries.

(4) In this section, “the relevant date” means—

(a) the date on which an application for registration in the register of young voters is made (or the date on which such an application is treated as made by virtue of section 10A(2) of the 1983 Act), or

(b) in the case of a person applying for registration in the register of young voters in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

6 Application of enactments relating to registration

(1) The enactments specified in column 1 of the tables in Parts 2, 3 and 4 of schedule 1 apply in relation to registration in the register of young voters (and to that register) for any area in Scotland as they apply in relation to registration in the register of local government electors (and to that register) for that area, but subject to—

(a) the modifications in Part 1 of schedule 1,

(b) the modifications (if any) in the corresponding entries in column 2 of the tables, and

(c) any other necessary modifications.
References in this Act to any enactment applied by virtue of this section and schedule 1 are to the enactment as it had effect on the day on which the Bill for this Act was passed by the Parliament.

Subsection (2) does not apply to an enactment specified in Part 4 of schedule 1.

5 Declaration of local connection: additional ground for young people

(1) This section applies for the purposes of the application of section 7B of the 1983 Act (notional residence: declaration of local connection) in relation to registration in the register of young voters.

(2) Section 7B of the 1983 Act also applies to a person who, on the date on which the person makes a declaration under subsection (1) of that section—

(a) has not attained the age of 17,

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

(c) does not wish to disclose the address at which the person is currently resident.

(3) In relation to such a person, “the required address” for the purposes of section 7B of the 1983 Act is any address in Scotland at which the person has previously been resident.

8 Register of young voters: canvass form

The form to be used for the purposes of the canvass under section 10(1) of the 1983 Act in relation to registration in the register of young voters is set out in schedule 2.

9 Register of young voters not to be published

(1) A registration officer must not publish, or otherwise disclose to any person, the register of young voters or any entry in the register, except as provided by—

(a) this section, or

(b) an applied enactment.

(2) The register, or an entry in it, may be disclosed to a person so far as necessary for the purpose of the carrying out by that person of any function in connection with registration in the register.

(3) The register, or an entry in it, may be disclosed to a person for the purposes of an independence referendum, but only in accordance with provision made by or under the Act of the Scottish Parliament by virtue of which the referendum is to be held.

(4) An entry in the register may be disclosed to the person to whom the entry relates.

(5) In subsection (1), “registration officer” includes—

(a) any deputy of a registration officer,

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

(c) any person, in the course of the person’s employment, assisting a registration officer in the carrying out of those functions.
Registration officers’ expenses

10 Registration officers’ expenses

(1) Any expenses properly incurred by a registration officer that are attributable to the exercise of the registration officer’s functions under this Act are to be paid by the Scottish Ministers.

(2) Sums payable by the Scottish Ministers under subsection (1) are payable on the submission of an account for the sums to them by the registration officer.

(3) If a registration officer requests from the Scottish Ministers an advance on account of any expenses referred to in subsection (1), the Scottish Ministers may make such advance on such terms as they think fit.

General

11 Power to make supplementary etc. provision and modifications

(1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) The power in subsection (1) includes power to make provision in consequence of, or in connection with—

(a) any provision made, or proposed to be made, in an Act of the Scottish Parliament for the holding of an independence referendum,

(b) any modification, or proposed modification, of any enactment relating to the registration of electors for the purposes of local government elections in Scotland.

(3) An order under subsection (1) may—

(a) modify any enactment (including this Act),

(b) apply any provision of any enactment (either with or without modifications),

(c) include supplementary, incidental, consequential, transitory or transitional provision or savings.

(4) An order under subsection (1) is subject to the affirmative procedure.

12 Interpretation

(1) In this Act—

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

“anonymous entry” in relation to the register of young voters is to be construed in accordance with section 9B of the 1983 Act, and “record of anonymous entries” means the record prepared under regulation 45A of the Representation of the People (Scotland) Regulations 2001 (SI 2001/497),

“applied enactment” means an enactment as applied for the purposes of this Act by virtue of section 6(1),

“area”, in relation to a registration officer, means the area for which the officer acts in relation to the registration of local government electors,

“declaration of local connection” means a declaration under section 7B of the 1983 Act,
“local government election” has the meaning given in section 204(1) of the 1983 Act,
“registration officer” means a registration officer appointed under section 8(3) of the 1983 Act,
“relevant citizen of the European Union” means a citizen of the Union who is not
a Commonwealth citizen or a citizen of the Republic of Ireland,
“service declaration” means a declaration under section 15 of the 1983 Act.

(2) In this Act, a reference to a provision of the 1983 Act that is applied for the purposes of
this Act by virtue of section 6(1) is a reference to that provision as so applied.

13 Commencement

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

(2) Despite subsection (1), no application for registration in the register of young voters
may be made before 1 December 2013.

14 Repeal

This Act ceases to have effect on 1 January 2015.

15 Short title

The short title of this Act is the Scottish Independence Referendum (Franchise) Act
2013.
SCHEDULE 1
(introduced by section 6(1))

APPLICATION OF ENACTMENTS

PART 1

GENERAL MODIFICATIONS

In any enactment as applied by virtue of section 6(1) and this schedule, unless the context requires otherwise—

(a) references to the register of local government electors (however expressed) are to be read as references to the register of young voters,

(b) references to residency for the purposes of section 4 of the 1983 Act are to be read as references to residency for the purposes of that section as it has effect for the purposes of section 5(1)(b) of this Act,

(c) references to any other enactment which is applied by virtue of section 6(1) are to be read as references to the enactment as so applied,

(d) “prescribed” means prescribed in an enactment specified in column 1 of the table in Part 3 of this schedule as that enactment is applied by virtue of section 6(1),

(e) “regulations” means any such enactment as is referred to in paragraph (d).

PART 2

THE 1983 ACT

The provisions referred to in column 1 of the table are provisions in the 1983 Act.

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<td>Section 7B (notional residence: declarations of local connection)</td>
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<td>In subsection (3)(e), the words “(if the declaration is made for the purposes only of local government elections)” are omitted.</td>
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<td>In subsection (3)(f), the reference to the age of 18 years is to be read as a reference to the age of 17 years.</td>
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<td>Subsection (1)(b) is omitted.</td>
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<td>In subsection (1), the reference to the duty to maintain the registers under section 9 of the 1983 Act is to be read as a reference to the duty to maintain the register of young voters under section 4(1) of this Act.</td>
<td>Subsections (2) and (3) are omitted.</td>
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<td>In subsection (3)(a), the reference to section 9(2) of the 1983 Act is to be read as a reference to section 4(2) of this Act.</td>
<td>In subsection (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
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<td>In subsection (8), the words “or the returning officer for any election” are omitted.</td>
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<td>Subsection (1) has effect as if—</td>
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<td>(a) for “an annual canvass” there were substituted “a canvass”, and</td>
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<td>(b) the words “, or to remain,” were omitted.</td>
<td>In subsection (3)(a), the reference to section 3 of the 1983 Act is to be read as a reference to section 3 of this Act.</td>
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<td>Subsection (3)(b)(iii) is omitted.</td>
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<td>Subsection (4) is omitted.</td>
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<td>In subsection (5), the references to a form are to be read as references to the form referred to in section 8 of this Act.</td>
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<td>Subsection (6) has effect as if for “alterations” there were substituted “entries”.</td>
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<td>In subsection (2A), the words “(subject to section 13BB(2))” are omitted.</td>
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<td>In subsection (3), the reference to the register in question is to be read as a reference to the register of young voters or the register of local government electors.</td>
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<td>In subsection (4)(a), the reference to voting age is to be read as a reference to the age of 16 years.</td>
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<td>In subsection (5)(a)(i), the reference to the form mentioned in section 10(4) is to be read as a reference to the form referred to in section 8 of this Act.</td>
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<td>In subsection (5)(b), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
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<td>In subsection (1), the reference to the publication of a revised version of a register under section 13 of the 1983 Act is to be read as a reference to the preparation of the register of young voters under section 4(1) of this Act.</td>
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<td>In subsection (1)(c), the words “or 58” are omitted.</td>
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<tr>
<td>Subsection (3) is omitted.</td>
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<td>In subsection (5)—</td>
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<td>(a) the reference to a published version of a register of electors is to be read as a reference to the register of young voters, and</td>
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<td>(b) the words “or section 13BB below” are omitted.</td>
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<td>Section 13B (alteration of registers: pending elections)</td>
<td>References to an election to which section 13B applies are to be read as references to an independence referendum.</td>
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<td>References to the appropriate publication date are to be read as references to the fifth day before the date of the poll at an independence referendum.</td>
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<td>References to the relevant election area are to be read as references to the area for which the registration officer acts.</td>
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<td>In subsection (1), the reference to the registration of electors is to be read as a reference to registration in the register of young voters.</td>
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<td>Subsections (1A), (2) and (8) are omitted.</td>
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<td>Section 14 (service qualification)</td>
<td>In subsection (1), the reference to the 1983 Act is to be read as including a reference to this Act.</td>
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<td>Subsection (2) is omitted.</td>
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<tr>
<td>Section 15 (service declaration)</td>
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</tr>
<tr>
<td>Section 16 (contents of service declaration)</td>
<td>In paragraph (f), the reference to the age of 18 years is to be read as a reference to the age of 17 years.</td>
</tr>
<tr>
<td>Section 17 (effect of service declaration)</td>
<td>Subsection (1)(b) is omitted.</td>
</tr>
<tr>
<td>Section 52 (discharge of registration duties)</td>
<td>References to the 1983 Act are to be read as including references to this Act.</td>
</tr>
<tr>
<td>Subsections (1), (1A), (3) and (5) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (4), paragraphs (a) and (aa) are omitted.</td>
<td></td>
</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modifications</td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Section 56 (registration appeals)</td>
<td>In subsection (1)(aa), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td></td>
<td>Subsection (1)(b) is omitted.</td>
</tr>
<tr>
<td></td>
<td>Subsections (3) and (4A) are omitted.</td>
</tr>
<tr>
<td>Section 57 (registration appeals: Scotland)</td>
<td></td>
</tr>
<tr>
<td>Section 59 (supplemental provisions as to members of forces and service voters)</td>
<td>Subsections (3) to (4) are omitted.</td>
</tr>
<tr>
<td>Section 62 (offences as to declarations)</td>
<td>References to being subject to a legal incapacity to vote are to be read as references to being subject to a legal incapacity to vote within the meaning of section 2(2) of this Act.</td>
</tr>
<tr>
<td></td>
<td>Subsection (2) is omitted.</td>
</tr>
<tr>
<td>Section 63 (breach of official duty)</td>
<td>References to “official duty” are to be read as including a duty imposed by virtue of this Act.</td>
</tr>
<tr>
<td></td>
<td>In subsection (3), paragraphs (a), (c) and (d) are omitted.</td>
</tr>
<tr>
<td></td>
<td>In subsection (3)(b), the words “returning officer or presiding officer” are omitted.</td>
</tr>
<tr>
<td></td>
<td>Subsections (4) and (5) are omitted.</td>
</tr>
</tbody>
</table>
## PART 3

**REPRESENTATION OF THE PEOPLE (SCOTLAND) REGULATIONS 2001**

The provisions referred to in column 1 of the table are provisions in the Representation of the People (Scotland) Regulations 2001 (SI 2001/497).

<table>
<thead>
<tr>
<th>Provisions of the 2001 Regulations</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 3 (interpretation)</td>
<td>Paragraphs (2) to (4) are omitted.</td>
</tr>
<tr>
<td>Regulation 4 (forms)</td>
<td>In paragraph (1)—</td>
</tr>
<tr>
<td></td>
<td>(a) sub-paragraph (b) is omitted, and</td>
</tr>
<tr>
<td></td>
<td>(b) the reference to an election is to be read as a reference to an independence referendum.</td>
</tr>
<tr>
<td></td>
<td>Paragraph (2) is omitted.</td>
</tr>
<tr>
<td>Regulation 5 (communication of applications, notices etc.)</td>
<td></td>
</tr>
<tr>
<td>Regulation 6 (electronic signatures and related certificates)</td>
<td></td>
</tr>
<tr>
<td>Regulation 8 (time)</td>
<td>In paragraph (2), the words “Subject to regulation 56(6) below,” are omitted.</td>
</tr>
<tr>
<td>Regulation 11 (interference with notices etc.)</td>
<td>The reference to a registration officer’s registration duties is to be read as a reference to the officer’s duties by virtue of this Act.</td>
</tr>
<tr>
<td>Regulation 14 (service declarations: qualification for Crown servants)</td>
<td></td>
</tr>
<tr>
<td>Regulation 15 (contents of service declaration)</td>
<td></td>
</tr>
<tr>
<td>Regulation 16 (transmission of service declaration)</td>
<td>In paragraph (1), the words “made by a member of the forces or his spouse or civil partner” are omitted.</td>
</tr>
<tr>
<td></td>
<td>Paragraphs (2) and (3) are omitted.</td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Regulation 17 (notification by registration officer in respect of service declarations)</td>
<td></td>
</tr>
<tr>
<td>Regulation 23 (power to require information)</td>
<td>Paragraph (2)(c) is omitted.</td>
</tr>
<tr>
<td>Regulation 24 (evidence as to age and nationality)</td>
<td>In paragraph (2)(d), the word “other” is omitted.</td>
</tr>
<tr>
<td>Regulation 26 (applications for registration)</td>
<td>In paragraph (3), the reference to section 54(1) of the 1983 Act is to be read as a reference to section 10(1) of this Act.</td>
</tr>
<tr>
<td></td>
<td>Paragraphs (4) and (4A) are omitted.</td>
</tr>
<tr>
<td>Regulation 27 (objections to registration)</td>
<td>In paragraphs (1) to (3), the references to registration as a parliamentary or local government elector (or both) are to be read as references to registration in the register of young voters.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (1)(c), the reference to being registered as an elector is to be read as a reference to being registered in the register of young voters.</td>
</tr>
<tr>
<td></td>
<td>Paragraph (1)(c) is omitted.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (1)(f), the words “except in the case of a person applying to be registered in pursuance of an overseas elector’s declaration,” are omitted.</td>
</tr>
<tr>
<td></td>
<td>In each of paragraphs (2) and (5), the words “or an overseas elector’s declaration” are omitted.</td>
</tr>
<tr>
<td></td>
<td>Paragraphs (6) to (10) are omitted.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (1)---</td>
</tr>
<tr>
<td></td>
<td>(a) in paragraph (a), the reference to the name of a person is to be read as a reference to the name and address of the person,</td>
</tr>
<tr>
<td></td>
<td>(b) sub-paragraphs (b) and (ba) are omitted.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (1)(d), the reference to the register is to be read as a reference to the register of young voters.</td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Regulation 29 (procedure for determining applications for registration and objections without a hearing)</td>
<td>In paragraph (1)(e), the reference to the electoral number is to be read as including a reference to the voter number.</td>
</tr>
<tr>
<td>Regulation 30 (notice of hearing)</td>
<td>Paragraph (8) is omitted.</td>
</tr>
<tr>
<td>Regulation 31 (hearing of applications and objections)</td>
<td>In paragraph (1)(c), the word “13(5),” is omitted.</td>
</tr>
<tr>
<td>Regulation 31A (objections relating to applications that have been allowed, but before alterations to register have taken effect)</td>
<td>Paragraph (2)(a)(ii) is omitted.</td>
</tr>
<tr>
<td>Regulation 31B (other determinations by registration officer of entitlement to registration)</td>
<td>In paragraph (2)(b)(ii), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31C (summary procedure for determining in specified circumstances person has ceased to satisfy conditions for registration)</td>
<td>In paragraph (2)(c), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31D (procedure for reviewing entitlement to registration)</td>
<td>In each of paragraphs (5) and (8), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31E (list of reviews)</td>
<td>In paragraph (2)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. Paragraph (3) is omitted.</td>
</tr>
</tbody>
</table>
### Provisions of the 2001 Regulations

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Provisions</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>31F</td>
<td>(hearings of reviews)</td>
<td>In paragraph (6), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>31G</td>
<td>(anonymous registration: applications and declarations)</td>
<td></td>
</tr>
<tr>
<td>31H</td>
<td>(anonymous registration: determination of applications by registration officer)</td>
<td></td>
</tr>
<tr>
<td>31I</td>
<td>(anonymous registration: evidence consisting of relevant court orders or injunctions)</td>
<td></td>
</tr>
<tr>
<td>31J</td>
<td>(anonymous registration: evidence by attestation)</td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>(registration appeals)</td>
<td>In paragraph (1)(b), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>32A</td>
<td>(representations regarding clerical errors)</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>(registration officer’s right to inspect certain records)</td>
<td>In paragraph (1), the reference to a registration officer’s registration duties is to be read as a reference to the officer’s duties by virtue of this Act.</td>
</tr>
<tr>
<td>36</td>
<td>(notices in connection with registration)</td>
<td>Paragraph (1) is omitted. Paragraph (2)(a) is omitted.</td>
</tr>
<tr>
<td>36A</td>
<td>(communication of notices made on polling day)</td>
<td></td>
</tr>
<tr>
<td>37</td>
<td>(notice by registration officer of a change of address)</td>
<td>In paragraph (1), the reference to section 9(2)(b) of the 1983 Act is to be read as a reference to section 4(2)(b)(ii) of this Act.</td>
</tr>
<tr>
<td>40</td>
<td>(qualifying addresses which are not included in the register)</td>
<td></td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------</td>
<td></td>
</tr>
<tr>
<td>Regulation 41 (order of names)</td>
<td>Paragraph (1)(b) is omitted.</td>
<td></td>
</tr>
<tr>
<td>Regulation 41A (anonymous entries)</td>
<td>In paragraph (3)(b), the reference to electors is to be read as a reference to voters.</td>
<td></td>
</tr>
<tr>
<td>Regulation 45A (record of anonymous entries)</td>
<td>In paragraph (1), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In paragraph (2)(b), the reference to electors is to be read as a reference to voters.</td>
<td></td>
</tr>
<tr>
<td>Regulation 45B (duties of registration officer and staff in relation to record of anonymous entries)</td>
<td>In paragraph (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In paragraph (4), the words “(in accordance with regulation 51(2)(d))” are omitted.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>References to a referendum are to be read as references to an independence referendum.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>References to the counting officer at a referendum are to be read as references to a counting officer at an independence referendum.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In paragraph (2), the words “returning officer at any election or” are omitted.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In each of paragraphs (2)(b) and (4), the words “election or” are omitted.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In paragraph (6), the definition of “counting officer” is omitted.</td>
<td></td>
</tr>
</tbody>
</table>
### Provisions of the 2001 Regulations

<table>
<thead>
<tr>
<th>Provisions of the 2001 Regulations</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 45C (supply of record of anonymous entries to returning and counting officers)</td>
<td>References to a counting officer are to be read as references to a counting officer at an independence referendum.</td>
</tr>
<tr>
<td></td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act.</td>
</tr>
<tr>
<td></td>
<td>In each of paragraphs (1) and (3), the words “returning officer or” are omitted.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (4), for the words “an election or referendum (as the case may be)” there are substituted “an independence referendum”.</td>
</tr>
<tr>
<td>Regulation 45F (certificate of anonymous registration)</td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
</tr>
<tr>
<td></td>
<td>Paragraph (3)(d) is omitted.</td>
</tr>
<tr>
<td>Regulation 115 (offences)</td>
<td>References to the provisions specified in paragraph (2) are to be read as references to regulation 45C(4).</td>
</tr>
<tr>
<td></td>
<td>Paragraph (2) is omitted.</td>
</tr>
</tbody>
</table>

### Part 4

#### Other enactments

<table>
<thead>
<tr>
<th>Enactments</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any act of sederunt under section 57(2) or (3) of the 1983 Act (registration appeals: Scotland)</td>
<td>References to the provisions specified in paragraph (2) are to be read as references to regulation 45C(4).</td>
</tr>
</tbody>
</table>
SCHEDULE 2
(introduced by section 8)

CANVASS FORM

To the occupier

The voting age for the referendum on Scottish independence is 16. British citizens, European Union citizens and qualifying Commonwealth citizens are entitled to vote (see over the page for more details).

If there are any young people living at this address who are 15 at the moment, but will be 16 by the referendum on \[date of referendum\], they should be registered using this form to make sure they can vote in the referendum.

If there are eligible 15 year olds living at this address, please make sure their details are entered in Part 1 below, then sign Part 2 and return the form. This is required by law.

If there are no 15 year olds living at this address, you do not need to complete or return this form.

People who are already 16 or older should not be registered using this form – their details should instead be entered on the annual canvass form (enclosed in the same envelope as this form). This will register them to vote in the referendum.

Part 1  15 year olds living at this address who will be 16 by \[date of referendum\]

Please enter the names of 15 year olds living here who will be 16 by \[date of referendum\] and are entitled to register to vote in the referendum, and whose names are not already printed below. Please cross out any names printed below that should not be on this form.

<table>
<thead>
<tr>
<th>Surname</th>
<th>First name and middle initials</th>
<th>Nationality</th>
<th>Date of birth (Day/Month/Year)</th>
<th>Postal vote</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
</tr>
</tbody>
</table>
Scottish Independence Referendum (Franchise) Bill
Schedule 2—Canvass form

Part 2 Please sign here before returning this form

It is an offence to give false information on this form.
I declare that, as far as I know, the details on this form are accurate and complete.

Signature ___________________________ Date ____________

Print name __________________________

Daytime phone number ___________________________ E-mail address __________________________

You do not need to provide your phone number or email address, but it could prove helpful if we need to contact you. It will not be used or supplied for any other purposes.

About this form

To vote in the referendum on Scottish independence, each person needs to be registered. People who are already 16 or older should be registered using the annual canvass form (which also registers them to vote in other elections once they turn 18). This form collects the information we need to register young people who are 15 at the moment, but will be 16 by the referendum on [date of referendum]. If you do not respond to this form, they may not be able to vote in the referendum.

This form will only register these young people to vote in the independence referendum: it will not register them to vote in any other election or referendum. To vote in most elections and referendums voters need to be 18.

Who can register to vote in the referendum?

Age: To vote in the referendum, voters must be 16 or older on [date of referendum]. This means that a person will be able to vote if their date of birth is [date] 1998 or earlier.

Residence: People normally register at the address where they reside. You should include people who are temporarily away (for example, on holiday, at boarding school or in hospital). If in doubt, please get in touch with your Electoral Registration Officer using the contact details below.

Nationality: People are entitled to register to vote in the referendum if they are:
- A British citizen
- A citizen of another EU country
- A qualifying Commonwealth citizen. This means a Commonwealth citizen who has leave to enter or remain in the UK, or who does not require such leave.

Details of people at this address

For each 15 year old being registered, you need to include:
- Their surname, first name and any middle initials.
- Their nationality. This will usually be shown on the person’s passport.
- Their date of birth, in the format DD/MM/YYYY, so that we can confirm they will be 16 by the referendum. For example, 5 December 1997 should be entered as 05/12/1997.
- Whether the person wants a postal vote application form.
What happens to the information I provide on this form?

The details of the people registered on this form will be placed on a “Register of Young Voters”, which will be used only for the referendum. Electoral Registration Officers and their staff will be the only people who are legally entitled to see the Register of Young Voters.

Some organisations will need the names and addresses of everyone who is registered to vote in the referendum, including those who are on the Register of Young Voters. These include people who administer the referendum (such as the staff at polling stations) and the official campaign groups, who may send a mailshot to everyone registered to vote. These organisations will be given a list of the names and addresses (but not the dates of birth) of everyone registered to vote in the referendum. They will not be told how old anyone on the list is, and it will be against the law for them to share or publish the list.

How to get in touch with us if you need assistance or more information

[For completion by EROs]

Note: the form above is to be printed in a sans serif font.
An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland, including provision for the establishment of a register of young voters for the purposes of such a referendum.

Introduced by: Nicola Sturgeon
On: 11 March 2013
Bill type: Government Bill
These documents relate to the Scottish Independence Referendum (Franchise) Bill (SP Bill 24) as introduced in the Scottish Parliament on 11 March 2013

SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Scottish Independence Referendum (Franchise) Bill introduced in the Scottish Parliament on 11 March 2013:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 24–PM.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

3. The Bill covers a range of issues, with supporting detail set out in schedules, as follows:
   - Franchise (sections 2-3 and schedule 1), being the rules about who is, and is not, entitled to vote in an independence referendum;
   - The creation and maintenance of the Register of Young Voters (sections 4-9 and schedules 1 and 2), which is required in consequence of the extension of the franchise to persons below the age at which they can register as local government electors; and
   - Registration officers’ expenses (section 10), which insofar as they relate to the functions under the Bill will be met by the Scottish Ministers.

BACKGROUND TO THE BILL

4. This Bill prescribes the rules for who can vote in a referendum on Scottish independence, and provides for the arrangements necessary for voters who will be under 18 on polling day to register to vote in the referendum.

5. The Bill consists of 15 sections and two schedules. Schedule 1 applies enactments (with modifications), mainly the Representation of the People Act 1983 (“the 1983 Act”) and the Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497). Schedule 2 prescribes the Young Voter Registration form to be used to register eligible young voters during the 2013-14 annual canvass.

Application of Act

6. Section 1 of the Bill provides that the Bill will apply for the purposes of a referendum on Scottish independence. Provision for the conduct of such a referendum is a matter that would require to be enabled by a separate Act of the Scottish Parliament and is not covered by the Bill.
These documents relate to the Scottish Independence Referendum (Franchise) Bill (SP Bill 24) as introduced in the Scottish Parliament on 11 March 2013

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). The eligibility criteria for the local government register 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.

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 Bill 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 Bill) to be eligible to vote at an independence referendum.

Offenders in prison etc. not to be entitled to vote

9. 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 the Bill 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.

Register of Young Voters

Register of Young Voters

10. Section 4 requires each Electoral Registration Officer (ERO) in Scotland to create and maintain a register for their area, to be known as the Register of Young Voters. Each entry on the RYV must include the individual’s name, date of birth, qualifying address (with limited exceptions) and voter number. Provision is made for voters to register anonymously, in line with
arrangements that allow anonymous registration in the local government electoral register in particular circumstances.

**Those entitled to be registered in the Register of Young Voters**

11. Section 5 defines who is entitled to be registered in the RYV. A person must meet the eligibility criteria that an elector must meet to register in the local government register (apart from the age requirement). These are set out at section 4 of the 1983 Act and are explained at paragraph 7 above.

12. To register in the local government register an individual must (in addition to other eligibility requirements) attain the age of 18 within 12 months of the 1 December following the date of their application to that register. To register in the RYV an individual must not be registered in the local government register, meet the requirements (age apart) to register in that register, and be 16 years old or of an age to attain age 16 by the date of the poll at an independence referendum.

**Application of enactments relating to registration**

13. Section 6 introduces schedule 1, which applies to the RYV (with modifications where appropriate) the registration arrangements that exist under existing legislation in relation to the local government electoral register.

14. Part 1 of schedule 1 makes some general modifications, such as to provide that any reference to the register of local government electors is to be read as a reference to the RYV. Part 2 applies provisions from the 1983 Act, and Part 3 applies provisions from the Representation of the People (Scotland) Regulations 2001. Part 4 applies any act of sederunt that determines the composition of the Registration Appeal Court. A summary of the effect of the provisions that the Bill applies is set out at paragraphs 23 to 62 of these explanatory notes.

**Declaration of local connection: additional ground for young people**

15. Section 7 allows for any young person who does not wish to disclose the address at which they are resident to register using an address in Scotland at which they have previously resided. They can do this by making a “declaration of local connection” (which is a form available from an ERO). This arrangement is already used in some circumstances for electoral registration under the 1983 Act. The provision made by section 7 is intended to be used by vulnerable young people who do not wish to disclose their address when registering.

**Canvass form**

16. Section 8 introduces schedule 2, which contains the form to be used in a canvass to ascertain persons entitled to be registered in the RYV. The form will be sent to occupiers of households in Scotland, and its return will be required if there is any young person resident at the address who will be eligible to vote in the referendum. Registration officers will use information from returned forms to make entries on the RYV, though individuals will also be able to apply to register separate from the canvass exercise.
Register of Young Voters not to be published

17. Section 9 prohibits EROs and their staff from publishing the RYV, or from disclosing information contained in it, except as necessary to persons who need the information to carry out registration functions, or in accordance with legislation providing for the purposes of an independence referendum. However, section 9(4) enables an individual registered in the RYV to obtain details of their own entry.

Registration officers’ expenses

18. Section 10 provides that the Scottish Ministers will reimburse costs EROs incur as a result of the functions they are required to carry out under the Bill. Each ERO is required to submit an account for the expenses claimed. Section 10(3) gives the Scottish Ministers the discretion to advance funds to an ERO.

General

Further provision about entitlement to vote, etc.

19. Section 11 gives the Scottish Ministers the power to make by order supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to, any provision of the Bill. Such an order can modify any enactment (including the Bill as enacted) and can apply any enactment for these purposes, with or without modifications. An order can include supplementary, incidental, consequential, transitory or transitional provision or savings. Any such order is subject to affirmative procedure in the Scottish Parliament.

Interpretation

20. Section 12 provides interpretation for several phrases used in the Bill. These are mainly the same as the meanings these phrases have in the 1983 Act. The section provides that where a provision of that Act is applied for the purposes of this Bill, it is to be interpreted taking into account any modifications that are made in schedule 1 to the Bill.

Commencement

21. Section 13 provides for commencement of the Bill, and prevents any application for registration in the RYV being made earlier than 1 December 2013. This is intended to allow time for preparatory arrangements to be made to set up the RYV and the canvass exercise that will be required to collect details of eligible young voters. It is expected that all young voters will be at least 15 at the time their details are captured.

Repeal

22. Section 14 provides for the Bill as enacted to cease to have effect on 1 January 2015. This ensures that from that date the duty imposed on EROs to prepare and maintain the RYV will cease.
Schedule 1, Part 2

23. Part 2 applies to the creation and maintenance of the RYV (with modifications where appropriate) provisions from the 1983 Act. Many of the modifications are simply to adapt the wording of provisions to the context of the RYV, or to avoid applying unnecessary subsections (for example, those that are relevant only to the registration of electors for parliamentary elections, rather than local government elections). So, for example, where references are made in the 1983 Act to provisions in that Act that are replicated in this Bill, those references are modified to refer to the replicating provisions. In general, the arrangements for preparing and maintaining the RYV follow the arrangements that apply to the register of local government electors.

24. Sections 5 to 7A relate to residence, in particular how it is determined for people who are absent from their permanent place of residence for employment, educational or health reasons. Section 6 specifically provides for merchant seamen who are not resident in the UK and sections 7 and 7A provide for patients in mental hospitals and for persons on remand etc. (in particular, when they are to be regarded as resident at the hospital or place of detention).

25. Sections 7B and 7C relate to declarations of local connection, which a person can make to allow them to register at an address. Section 7B sets out what information a declaration must contain. Section 7C sets out the effect and duration of declarations of local connection. The modifications alter a requirement relating to age, because a person who has attained the age of 17 will be included in the canvass for the register of local government electors and, therefore, will not apply to be registered in the RYV. The modifications also remove irrelevant provision.

26. Section 9A requires EROs to take all necessary steps to maintain the RYV as set out in section 4 of the Bill. The modifications remove provision relating to specific steps that have to be taken, as these would be more onerous than needed. (For example, if the section was applied in full, an ERO could be required to send reminders and make inquiries at an address where an RYV canvass form was not returned, even where the ERO had no reason to believe that a young person resided at that address.)

27. Sections 9B and 9C set out procedures for anonymous registration, which are to be the same as those that apply for anonymous registration in the register of local government electors.

28. Section 10, as modified, will require EROs to conduct a canvass for the purpose of compiling the RYV using the form set out in schedule 2. The modifications reflect that only a single canvass will be required, as the duty to maintain the RYV will cease from 1 January 2015, and that the canvass will not be concerned with whether electors remain on a register, but will be used to create the RYV. The omitted provision relates to Northern Ireland and to overseas electors (who are not eligible to vote at local government elections).

29. Section 10A requires EROs to determine all applications for registration in the RYV and provides for objections and for removal of entries in the RYV. The modifications remove irrelevant provision relating to applications during canvass periods when a poll is pending and provide that objections to applications can be made by persons registered in the RYV, as well as persons registered in the local government electoral register. They also clarify that a reference to
“voting age” is to be regarded as referring to voting age for the purposes of an independence referendum, i.e. 16 years of age.

30. Sections 13A and 13B set out arrangements for making alterations to the RYV, including specifying that in most cases such alterations must be made no later than five days before the referendum (ignoring weekends, bank holidays etc.) if they are to have effect for the referendum. After that date, and up to 9 pm on the day of the poll, the outcome of a registration appeal would still be actioned; also the ERO could correct a clerical error that was identified. The modifications mainly reflect the fact that the RYV will not be published and that there will only be one canvass to compile it; the modifications also omit irrelevant provision.

31. Section 13D provides an offence of knowingly providing an ERO with false information relating to the registration of electors on the RYV. The penalty for committing this offence may be imprisonment for up to 6 months or a fine of up to £5,000, or both. The omissions remove irrelevant provision about applications relating to absent voting, and subsections only relevant to Northern Ireland, England and Wales.

32. Sections 14 to 17, supplemented by section 59, relate to service declarations and their effect. Service declarations are a means for certain people to register to vote when, because of the nature of their jobs (or the jobs of their spouses or civil partners), they may not be considered resident at an address in the UK. The following people can make a service declaration for the purposes of registering in the RYV:

- members of the armed forces and their spouses or civil partners;
- some Crown servants posted outside the UK (see paragraph 43);
- employees of the British Council posted outside the UK;
- spouses or civil partners who are residing outside the UK to be with those Crown servants or British Council employees.

33. Section 52 enables deputies to act for an ERO in the discharge of registration duties and requires local authorities to assign persons to assist EROs in carrying out their functions under the Bill. Some of the omitted provision relates to powers of the Secretary of State to issue directions to EROs, which it is considered unnecessary to replicate for the purposes of this Bill. The remainder relates to England, Wales and Northern Ireland.

34. Sections 56 and 57 provide for how any registration appeal in relation to the RYV would be heard. Appeal lies to the sheriff, and then on any point of law to a court comprised of three Court of Session judges (the Registration Appeal Court). The omitted provisions relate to appeals relating to absent voting applications and other material relating to the conduct of a poll, rather than compilation of a register of voters.

35. Section 59 is an interpretative provision relating to “members of the forces”. The omitted provisions relate to the duties of UK Government departments and the British Council in relation to such persons, which it is unnecessary to apply given the timespan of the RYV.
36. Section 62 provides that it is an offence for a person to make a declaration of local connection, to make or attest a service declaration, or to make a declaration for anonymous registration purposes when not entitled to do so, or when the person knows that it contains false information. A person committing such an offence is liable on summary conviction to a fine of up to £5,000. Subsection (2), which is relevant only to local government elections, is omitted.

37. Section 63 provides that EROs and their deputies who breach their duties under the Bill without reasonable cause are liable on summary conviction to a fine of up to £5,000. The omitted provisions relate to duties of other persons, and are therefore irrelevant for the purposes of this Bill.

Schedule 1, Part 3

38. Part 3 applies (with modifications where appropriate) regulations from the Representation of the People (Scotland) Regulations 2001.\(^1\) As with Part 2, in the main the modifications are made to adapt the wording of provision to the context of the RYV, rather than to make substantive changes to the arrangements that the regulations make. Omissions mainly relate to irrelevant material, such as provision that is relevant only to parliamentary or local government elections, or the registers that relate to them (for example, paragraphs (6) to (10) of regulation 26 are omitted because they relate to the full and edited versions of those registers, but there will only be one version of the RYV, and it will not be published).

39. Regulation 4 requires the ERO to provide registration forms free of charge to any persons who intend to use them in connection with an independence referendum.

40. Regulations 5 and 6 clarify that where an application, notice or objection requires to be made in writing, this includes transmitting the text electronically (as long as it is legible and is capable of later being used for reference) and that electronic signatures can be used.

41. Regulation 8 clarifies that, where time periods are referred to in other regulations, Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday and Scottish bank holidays are ignored.

42. Regulation 11 provides that damaging or removing registration notices is an offence, and on conviction a person can be fined up to £1,000.

43. Regulations 14 to 17 relate to service declarations. Regulation 14 provides that Crown servants who are posted outside the UK and whose salaries are paid in full by Parliament qualify to register by virtue of a service qualification, as members of the forces do. Regulations 15 and 16 set out the information that a service declaration must contain and that it must be transmitted to the ERO for the area containing the address specified in the declaration. Regulation 17 requires the ERO to confirm that a person’s service declaration is acceptable, or to return the declaration to the applicant with reasons for its rejection.

\(^1\) S.I. 2001/497. The Regulations have been extensively amended. S.I. 2002/1872 and 2007/925 each make a large number of amendments that are significant for regulations that this Bill applies; there are also relevant amendments in S.I. 2005/2114, 2006/834 and S.I. 2009/725.
44. Regulation 23 provides that an ERO may require any person to provide information that is needed to enable the ERO to maintain the RYV. It is an offence for a person to fail to provide such information and they would be liable to a fine of up to £1,000.

45. Regulation 24 gives an ERO the power to require a person to produce evidence of their age or nationality for registration purposes if the ERO has doubts about these matters. The ERO may require the following as evidence:

- a birth certificate or statutory declaration of the person’s date of birth;
- a certificate of nationalisation;
- a document showing that the person has become a Commonwealth citizen;
- a statutory declaration that the person is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of the EU.

46. If a fee is payable in order for one of the declarations above to be made, this is paid by the ERO and treated as part of his or her registration expenses which are reimbursed by the Scottish Ministers under section 10 of the Bill. The arrangements in this regulation do not apply to applications involving service declarations. The omission of paragraphs (4) and (4A) prevents a declaration being made available for inspection at the ERO’s office, to maintain the confidentiality of the RYV. That is in line with the approach taken to declarations relating to the parliamentary and local government registers, where a person either has or has sought an anonymous entry.

47. Regulation 26 sets out the information that an application for registration in the RYV must contain. This includes the applicant’s full name, address, date of birth and nationality. Applications must be written, signed and dated.

48. Regulations 27 to 31A set out the arrangements for making objections to registration and applications to be registered. They also set out how these are to be handled. An objection that is invalid or of no merit may be rejected without a hearing and the application allowed. Regulation 28 is not applied, with the effect that applications and objections are not made available for inspection. This is as a result of the RYV not being published. Regulation 27(1)(d) is modified to ensure that an objection can be made by a person registered in the RYV or the register of local government electors.

49. Regulations 31B to 31F relate to procedures for determining a person’s entitlement to register in the RYV, including decisions that a person has ceased to satisfy the conditions for registration. Regulation 31E(3) is omitted so that the list that EROs must keep of registrations that are under review is not made available for inspection at the ERO’s office.

50. Regulations 31G to 31J relate to determination of applications for anonymous registration, including the supporting evidence and information that is required for such applications. These will operate in the same way as an application for an anonymous registration in the register of local government electors. A reason for the application must be given, with evidence of a relevant court order or a certification by an appropriate person (such as a chief
social work officer) that the safety of the applicant or a member of their household would be at risk if the RYV contained the applicant’s name or address.

51. Regulation 32 makes provision regarding registration appeals, including the timescales for appeal and the steps an ERO must take in the event of an appeal.

52. Regulation 32A enables representations regarding clerical errors to be made orally or in writing. It places a duty on presiding officers at a referendum to communicate any representations made to them in a polling station to the relevant ERO.

53. Regulation 35 authorises an ERO to inspect local authority records and registration records (of births, marriages and deaths) for the purposes of carrying out registration duties. This would, for example, enable an ERO to inspect records held by a council for education purposes to identify persons who appear to be eligible to register in the RYV.

54. Regulation 36 provides that an ERO must send a copy of a notice making an alteration to the RYV to any person affected by it (unless the person has died). Paragraphs (1) and (2)(a) are omitted, to remove a requirement to publish these notices and make copies available for inspection.

55. Regulation 36A requires EROs to take reasonable steps to bring to the attention of the relevant presiding officer any notices relating to alterations to the RYV that are issued on the day of a poll.

56. Regulation 37 requires an ERO who has been told of a change of address to notify the address to another ERO, if the new address is in that officer’s area.

57. Regulation 40 provides for cases where the RYV need not contain a qualifying address. This may cover a situation in which a person has given an address in an electoral area for the purposes of a declaration of local connection or a service declaration, but is not actually resident there. Regulation 41 provides that no address is shown for such a person and instead the person appears at the end of the appropriate part of the register. The omission relates to overseas electors.

58. Regulation 41A provides that if a person is entered anonymously on the RYV, their entry consists only of their voter number and the letter “N”.

59. Regulation 45A requires an ERO to keep a record of anonymous entries in the RYV. It prescribes that each entry in this record must include the full name of the person to whom the entry relates, their voter number, their qualifying address, and the date from which the anonymous entry took effect. If the person has been granted a postal vote, the record must also include the address to which the postal ballot paper should be sent.

60. Regulations 45B and 45C set out the duties of EROs and their staff in relation to the record of anonymous entries. It prohibits them from supplying, disclosing or making use of information contained in that record, except in accordance with an enactment or to comply with
a court order or tribunal order. The record must be provided to a counting officer at an independence referendum, though the same prohibitions apply to ensure that the record is only supplied, disclosed or used for referendum purposes.

61. Regulation 45F requires an ERO to issue a certificate of anonymous registration to a person entered in the record of anonymous entries. The omission relates to the duration of such a certificate, which is not relevant given the timespan of the RYV.

62. Regulation 115 provides that a person is guilty of an offence if a person contravenes the restrictions under regulation 45C on supply, disclosure or use of information contained in the record of anonymous entries or fails to take appropriate steps to prevent a person they are responsible for supervising from failing to comply with that provision. A person guilty of such an offence is liable on summary conviction to a fine of up to £5,000.

Schedule 1, Part 4

63. Part 4 applies any act of sederunt that determines the composition of the Registration Appeal Court.

Schedule 2

64. Schedule 2 provides the Young Voter Registration form to be used to obtain details of young people during the canvass that the Bill requires. These details will be used to make entries in the RYV, though they will not be the only means by which an application can be made.

Table of Provisions

65. The following table takes some of the main areas that the Bill covers and shows the relationship between those elements of the Bill, provisions applied from the 1983 Act and provisions applied from the Representation of the People (Scotland) Regulations 2001. Some provisions relate to more than one subject; not all provisions are covered.

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These documents relate to the Scottish Independence Referendum (Franchise) Bill (SP Bill 24) as introduced in the Scottish Parliament on 11 March 2013

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FINANCIAL MEMORANDUM

INTRODUCTION

1. This document relates to the Scottish Independence Referendum (Franchise) Bill introduced in the Scottish Parliament on 11 March 2013. It has been prepared by Nicola Sturgeon, who is the member in charge of the Bill, to satisfy Rule 9.3.2 of the Parliament’s Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

2. Details of the full costs associated with holding the referendum will be published in the Financial Memorandum for the main Scottish Independence Referendum Bill, which will set out how the provision made by this Bill will be used. This Bill makes provision about entitlement to vote in an independence referendum. It provides the framework to allow persons aged at least 16 on the day of the referendum, but whose details do not appear on the register of local government electors, to register for and vote in the referendum. This Financial Memorandum details the costs associated exclusively with the creation and maintenance of that register, as that is the only significant cost created by this Bill.

3. This Bill—
   - sets out who is entitled to vote in the referendum;
   - gives Electoral Registration Officers (EROs) a duty to collect the information necessary to register eligible under-16s who will be at least 16 by the date of the referendum, but who will not appear on the register of local government electors. EROs will be asked to collect this information at the same time as they conduct the next annual household canvass;
   - requires each ERO to collate this additional information into a Register of Young Voters (RYV) for their area, which will contain the details of young people who will be at least 16 at the time of the referendum but will not appear on the local government register;
   - gives EROs a duty to maintain the RYV under rolling registration (that is, by allowing eligible young people to register to vote in the referendum after the conclusion of the canvass exercise and to take account of changes of address);
   - prohibits EROs from publishing the RYV, and directs that they provide the material it contains only to a limited group of people as set out in the Franchise Bill and other legislation relating to the referendum.

METHODOLOGY

4. The purpose of this Financial Memorandum is to set out the best estimates of the administrative and other costs to which the provisions of the Bill will give rise, and an indication
of the margins of uncertainty in these estimates. It has been developed using the best available evidence, recognising that the bulk of the expense will be incurred through future contractual arrangements between external parties and is, therefore, subject to commercial and contractual considerations at the time.

5. The costs associated with the provisions of the Bill can be separated into the following broad categories—
   - Testing the Young Voter Registration form
   - Changes to electoral management software
   - Printing and distributing Young Voter Registration forms
   - Sending reminders to those who fail to complete Young Voter Registration forms
   - ‘Outwith-canvass costs’ such as rolling registration.

COSTS ON THE SCOTTISH ADMINISTRATION

6. The Scottish Government will reimburse EROs for the additional costs listed above associated with the registration of young voters to vote in the referendum\(^2\). The costs of registering older voters under existing arrangements are not affected by the Bill. Each category of additional cost is discussed in more detail below under ‘Costs on Local Authorities’ as this is where the costs will fall in the first instance.

7. The additional costs incurred by EROs in fulfilling their statutory responsibilities and duties under the provisions of this Bill will be reimbursed by the Scottish Government directly to the ERO concerned. EROs will be able to make claims to the Scottish Government to cover the additional expenditure set out in this Financial Memorandum. The Scottish Government will continue to engage with the Scottish Assessors Association (the professional body for EROs in Scotland) to establish reasonable maximum cost limits in the relevant areas of expenditure.

8. The Scottish Government will also incur some preparatory expenditure in relation to the provision made by the Bill. In particular, the Electoral Commission has advised that the Young Voter Registration form should be independently tested, to ensure it is user-friendly and readily comprehensible. In order to have the form finalised in the appropriate timescales, the contract was put out to tender prior to the Bill being introduced into Parliament, and was awarded at the end of February for a total of £25,000. The costs for this, while preparatory, are a direct result of the provisions of the Bill and are thus included in the table of costs and total amount below.

COSTS ON LOCAL AUTHORITIES

9. The costs of electoral registration in Scotland are normally met through local authority budgets. For the purposes of the 2014 Scottish Independence Referendum, the Scottish Government will reimburse EROs for any additional costs associated with extending the franchise to 16 and 17 year olds.

\(^2\) Section 10 of the Scottish Independence Referendum (Franchise) Bill
10. The costs associated with this Bill centre around the extra expense which will be incurred by EROs in registering any young person who will be at least 16 by the time of the referendum, but who would not be included on the local government electoral register. A Young Voter Registration form will be distributed to all households in Scotland in autumn/winter 2013, at the same time as the standard annual canvass form. Co-ordinating with the existing canvass process in this way, rather than running a separate registration exercise, is intended to keep the administrative burden and costs to a minimum.

Producing and distributing the Young Voter Registration forms

11. The form will need to be printed and distributed to every household in Scotland along with the household canvass packs used to compile the existing electoral registers. Each ERO has a contract with an external company to print and distribute the canvass packs for their area. Initial quotes have been obtained from three of these printing companies (who between them currently work with 13 of the 15 EROs) for printing copies of the Young Voter Registration form, prepopulated with voter information as desired by the individual EROs, to include in every canvass pack they send out.

12. The quotes received per 1,000 forms varied. Quotes from two printing companies, who between them already represent 12 out of the 15 EROs, suggest that a figure of around £20 per 1,000 forms is a realistic estimate for the printing of Young Voter Registration forms. Assuming that around 2.4 million forms would need to be printed and distributed, the Scottish Government has estimated the national cost at approximately £50,000. There would be no additional postage or return postage costs for including a Young Voter Registration form in each canvass pack.

13. The possibility of making savings by printing all the Young Voter Registration forms for Scotland under a single bulk contract was investigated. However, in the circumstances, this would make the co-ordination with the rest of the canvass pack very complex, as the main canvass packs would continue to be printed by a range of printing companies under their existing contracts with individual EROs. The format of the data used to prepopulate forms also varies from ERO to ERO, which would complicate channelling the printing through a single printing company.

Sending reminders

14. Households that have returned neither the household canvass form nor a Young Voter Registration form will be sent a reminder, in respect of both forms. Those who fail to return only a Young Voter Registration form will only be sent a reminder if the ERO has reason to believe the form should have been returned (i.e. that an eligible young person is resident at the address). Assuming a similar proportion to that for normal canvass forms do not return their Young Voter Registration forms, it is reasonable to expect that it will be necessary to pay for the printing and distribution of around 40,000 reminders. On the basis of advice received from printing companies, it has been assumed that the printing costs will account for 25% of the total cost of printing and distributing forms, and the postage costs will account for the remaining 75%.

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3 One for each household, based on the fact that in mid-2011 the estimated number of households in Scotland was 2.37 million, and the average increase per year is 17,300. (Chapter 9 of National Records of Scotland’s Population Estimates http://www.gro-scotland.gov.uk/files2/stats/annual-review-2011/rgar-2011.pdf)

4 On the basis that around 120,000 young people will be eligible to vote, and printing companies’ advice that around a third of households do not respond to the initial canvass.
Assuming that the cost of the printing remains as above, at £20 per 1,000 forms (£800), postage and return postage would cost around £4,800. Including the costs of return envelopes (at £10.50 per 1,000), this gives a total figure for printing and distributing reminders of around £6,000.

**Electoral management software**

15. The most significant area of expense is likely to be development costs for changes to the Electoral Management Software. Adaptations to the software will be required to ensure that the systems are able to implement the provisions of the Bill for the Register of Young Voters while simultaneously retaining the functionality necessary for other elections. Five software systems are in use across Scotland, and each will need to be developed separately. The systems are all different, and support a varying number of EROs so the costs are different for each system. The local EROs hold the contract for the software. Each of the suppliers has provided the Scottish Government with an initial quote for implementing the required specification, and these suggest an estimated total cost of around £240,000.

16. On the basis that the required specification does not change significantly between now and the canvass, it can be assumed that this is a reasonable estimate for software development costs. However, as with any contractual arrangement between two parties, there is a possibility that this cost could vary, although the Scottish Government expects the total cost to remain within the estimate given in paragraph 15.

**Other costs (including rolling registration)**

17. In addition to the costs set out above, there are likely to be some other administrative costs for EROs associated with the changes to the franchise which they will incur in the course of their registration duties. The work of EROs in any canvass is organised on a local basis, which results in certain practical differences in the way canvasses are run. For this reason, it is difficult to estimate on a national basis how much extra resource might be required by EROs to carry out the responsibilities conferred on them by the Bill, although the Scottish Government has had discussions with EROs to attempt to quantify this.

18. The system of rolling registration, for example, allows people to apply to register or to amend their details at any time throughout the year. As a general guide, registration during the household canvass accounts for around 60% of the cost of registration, while registration outside of the canvass accounts for around 40%.\(^5\) In Scotland, the proportion is slightly different, but this is due to the structure and staffing of electoral administration. While the proportion of households who apply outwith the canvass is lower than 40%, the cost associated with these applications is higher, and Scottish EROs agree that a 60/40 split between canvass and non-canvass registration costs is an appropriate basis to work from. In order to give an estimate of costs for the purposes of this Financial Memorandum, it has been assumed that the costs estimated here represent the 60% ‘during canvass’ costs, and have matched this with a 40% ‘outwith-canvass’ cost. Start-up costs, such as software development and testing of the form, for the purposes of determining ‘during canvass’ costs have not been included. It is anticipated that the extra 40% will be more than sufficient to cover any rolling registration costs, given the

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\(^5\) Electoral Commission report on the costs of registration in Great Britain, December 2012
relatively small number of voters involved, but it is expected that this could also in effect provide a contingency for other anticipated costs, such as basic administration costs, or those involved in the interaction with Individual Electoral Registration as described below.

19. The UK Government’s introduction of a new registration system (Individual Electoral Registration) under the Electoral Registration and Administration Bill\(^6\) is likely to place an additional burden on EROs if it is introduced in Scotland in the lead up to the referendum. [The UK Government will reimburse EROs for the cost of introducing IER, although the interaction between the concurrent demands on registration administrators could give rise to additional costs].

20. As stated above, the Scottish Government will continue discussions with EROs through the Scottish Assessors Association to establish reasonable cost limits on what individual EROs may claim.

*Registration appeals and offences*

21. The Bill applies standard provisions for electoral registration appeals to be made in relation to the Register of Young Voters.\(^7\) Registration appeals are not common and EROs have confirmed that they do not expect to deal with an increased number under the Bill. Any which do occur should be able to be absorbed within existing ERO budgets.

22. The Bill also contains offence provisions in relation to the RYV.\(^8\) These are not new offences, but standard electoral offences replicated and applied to the RYV. The Scottish Government does not expect any significant level of prosecutions as a result of the legislation and therefore the cost implications for the criminal justice system will be minimal.

*Use of delegated power*

23. Section 11 of the Bill contains a delegated power which gives Scottish Ministers the power to make supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to, any provision made by the Bill. The Scottish Ministers have no specific intention to use this power; it has been taken as a reasonable and responsible precaution to allow the Scottish Ministers to respond to any unforeseen circumstances which might otherwise risk delaying the registration process to allow all 16 and 17 year olds to be able to register for and vote in the referendum. In the event that this power were to be used, it is probable that provision made would involve using existing staff and staff time to carry out any required activities, and the Scottish Government does not, therefore, anticipate any extra costs arising as a result of this provision.

\(^6\) [http://services.parliament.uk/bills/2012-13/electoralregistrationandadministration.html](http://services.parliament.uk/bills/2012-13/electoralregistrationandadministration.html)

\(^7\) Schedule 1, Part 2 of the Scottish Independence Referendum (Franchise) Bill.

\(^8\) Schedule 1, Part 2 of the Scottish Independence Referendum (Franchise) Bill.
Total of Estimated Costs

<table>
<thead>
<tr>
<th>Category of Costs</th>
<th>Estimate (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Set-up costs</strong></td>
<td></td>
</tr>
<tr>
<td>Testing the Young Voter Registration form</td>
<td>25,000</td>
</tr>
<tr>
<td>Electoral management software changes</td>
<td>240,000</td>
</tr>
<tr>
<td><strong>During canvass costs</strong></td>
<td></td>
</tr>
<tr>
<td>Printing Young Voter Registration forms</td>
<td>50,000</td>
</tr>
<tr>
<td>Sending reminder Young Voter Registration forms</td>
<td>6,000</td>
</tr>
<tr>
<td><strong>Outwith canvass costs</strong></td>
<td></td>
</tr>
<tr>
<td>Assuming a 60/40 split with ‘during canvass costs’</td>
<td>c.37,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>358,000</strong></td>
</tr>
</tbody>
</table>

24. The majority of the costs in the above table are expected to fall within the 2013/14 financial year, apart from some of the costs in the 40% ‘outwith canvass’ category which will fall in the 2014/15 financial year.

**COSTS ON THE ELECTORAL COMMISSION**

25. It is anticipated that, as the body with statutory responsibility for providing information for voters on the referendum, the Electoral Commission’s public awareness campaigns would include information specific to young voters. The funding arrangements for the Electoral Commission will be specified in the main Scottish Independence Referendum Bill.

**COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES**

26. There are no obligations imposed on other bodies, individuals or businesses by this Bill which would result in costs being incurred.
SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

On 11 March 2013, the Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon MSP) made the following statement:

“In my view, the provisions of the Scottish Independence Referendum (Franchise) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 11 March 2013, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Scottish Independence Referendum (Franchise) Bill would be within the legislative competence of the Scottish Parliament.”
INTRODUCTION

1. This document relates to the Scottish Independence Referendum (Franchise) Bill introduced in the Scottish Parliament on 11 March 2013. It has been prepared by the Scottish Government to satisfy Rule 9.3.3(c) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 24–EN.

POLICY OBJECTIVES OF THE BILL

General overview

2. The Bill defines eligibility to vote in a referendum on Scottish independence held in pursuance of an Act of the Scottish Parliament, and puts in place the arrangements necessary to enable those who will be at least 16 years old at the date of the referendum, but whose details will not appear on the local government electoral register at that date, to register to vote in such a referendum.

BACKGROUND

3. The Scotland Act 1998 (Modification of Schedule 5) Order 2013 confirms the Scottish Parliament's power to legislate for a single-question referendum on independence, held by 31 December 2014. In March 2013 the Scottish Government intends to introduce to the Parliament a Bill to provide for such a referendum.

4. The Edinburgh Agreement (between the Scottish and UK Governments) confirmed that it is for the Scottish Government to propose - and the Scottish Parliament to determine - what the franchise for a referendum on Scottish independence should be. The Scottish Government proposes that the franchise for the referendum be based on that for Scottish Parliament and local government elections, as the franchise for these elections most closely reflects residency in Scotland. This approach follows the precedent of the 1997 referendum on the establishment and tax-varying powers of a Scottish Parliament held under the Referendums (Scotland and Wales) Act 1997. In addition, the Scottish Government proposes that the voting age for the referendum should be 16, rather than 18 as it is for Scottish Parliament and local government elections. This
This document relates to the Scottish Independence Referendum (Franchise) Bill (SP Bill 24) as introduced in the Scottish Parliament on 11 March 2013

is in line with Scottish Government policy that the voting age should be reduced from 18 to 16 for all elections and referendums.

5. In January 2012, the Scottish Government published the consultation paper *Your Scotland, Your Referendum*, which set out proposals for lowering the voting age to 16 for the referendum, and a clear majority of respondents to the consultation who commented on the issue were broadly in favour of this policy.¹

6. However, the proposals set out in *Your Scotland Your Referendum* would not have enabled all 16 year olds to vote. The proposals sought to work within the existing UK-wide electoral registration system, under which a person under the age of 18 can only register to vote if they will become 18 during the twelve months beginning on 1 December after their registration. This means that many young people would not have been entitled to register, even though they would have been old enough to vote (i.e. at least 16) by the date of the referendum.

7. The Bill, therefore, puts in place arrangements to ensure that all 16 and 17 year olds (who are not ineligible on other grounds) can register to vote in the referendum, and ensures that the process for registering them is as straightforward and accessible as possible. This will involve registering young people in conjunction with the last annual canvass before the referendum, which is currently scheduled to run from autumn/winter 2013 to spring 2014.

8. To ensure that Electoral Registration Officers (EROs) have the necessary powers to thoroughly prepare for and conduct the registration of eligible young people as part of the autumn/winter 2013 – spring 2014 canvass, legislation to give them these powers needs to be in place by summer 2013. The Scottish Independence Referendum (Franchise) Bill (“the Franchise Bill”) has therefore been introduced in advance of the main Scottish Independence Referendum Bill (“the Referendum Bill”), to ensure that, if supported by the Parliament, these necessary powers are in place in good time.

**PROVISIONS OF THE BILL**

9. Both the Franchise Bill and the Referendum Bill contain material relevant to the participation of 16 and 17 year olds in the referendum. The Franchise Bill sets out who is entitled to vote at the referendum, including the requirement that voters be 16 or over; provides for collection of data on eligible young people whose details would not otherwise be collected as part of the next annual household canvass; provides for the compilation of a register from that data to be held separately from the other electoral registers and for the maintenance of that register; and sets out who will have access to it and data held on it. The Referendum Bill will include provision on how that register will be used for the purposes of running the referendum. It will provide for data from the register of young voters to be merged with data from the register of local government voters to create a single polling list for use at the referendum, and will set out who will be able to access that list. These areas will be covered in the Referendum Bill rather than in the Franchise Bill because they are interconnected with other issues dealt with in the Referendum Bill. The arrangements put in place across the two Bills are intended to balance

¹ See *Your Scotland, Your Referendum: An Analysis of Consultation Responses*, pp. 41-44. [http://www.scotland.gov.uk/Publications/2012/10/3849](http://www.scotland.gov.uk/Publications/2012/10/3849)
putting young voters on an equal footing with other voters with a desire to ensure that their data is treated sensitively and responsibly.

10. Specifically, the Franchise Bill provides for:

- Electoral Registration Officers (EROs) to be given a duty to collect the information necessary to register eligible under-16s who will be at least 16 by the date of the referendum. EROs will be asked to collect this information at the same time as they conduct the next annual household canvass.

- Each ERO to be required to collate this additional information into a Register of Young Voters (RYV) for his or her area, which will contain the details of young people who will be at least 16 at the time of the referendum but will not appear on the local government register.

- EROs to be given a duty to maintain the RYV under rolling registration (that is, to allow eligible young people to register to vote in the referendum after the conclusion of the canvass exercise and to take account of changes of address).

- EROs to be prohibited from publishing the RYV, and permitted to provide the material it contains only to a limited group of people as set out the Franchise Bill and other legislation relating to the referendum.

11. The Bill's general approach is to replicate current registration practice for the purposes of the Register of Young Voters as far as possible (in other words, as far as it can do so while balancing the need to treat data on young people sensitively). It does this by applying existing electoral legislation with modifications, and much of this material is contained in schedule 1 of the Bill.

**Franchise at the referendum**

12. The Bill provides that eligibility to vote in the referendum will be based on that for Scottish Parliament and local government elections. This means that the following groups of people will be entitled to register to vote:

- British citizens resident in Scotland.

- Qualifying Commonwealth citizens resident in Scotland. This means Commonwealth citizens who either have leave to remain in the UK or do not require such leave, and are resident in Scotland.

- Citizens of the Republic of Ireland and other EU countries resident in Scotland.

- Members of the House of Lords resident in Scotland.

- Service/Crown personnel serving in the UK or overseas in the Armed Forces or with Her Majesty’s Government who are registered to vote in Scotland.

13. Convicted prisoners detained in a penal institution will not be eligible to vote in the 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. While the franchise at the referendum is a matter for the Scottish Parliament to determine, the franchise at elections in
Scotland (as throughout the UK) is a matter for the UK Parliament. The UK Government announced in November 2012 that it would ask a committee of parliamentarians to consider a range of options set out by the Government in response to successive rulings by the European Court of Human Rights that the UK’s current blanket ban on prisoners voting in elections to state legislatures breaches the European Convention on Human Rights. The committee will report later in 2013. The ECHR ruling (and human rights case law) does not relate to referendums, and convicted prisoners will not be able to vote in the referendum irrespective of whether UK electoral law is amended to extend the vote to prisoners for parliamentary elections before the referendum in 2014.

Proposals for the Register of Young Voters

14. The Bill will give EROs a duty to collect the details of young people who are under 16 at the time of the 2013-14 canvass, but will be at least 16 by the date of the referendum on independence. This is in addition to the data EROs already collect on 16 and 17 olds each year as part of the canvass. The details they will need to collect are the same as those they currently collect on 16 and 17 years olds: their name, address, date of birth and nationality.

15. In order to collect these details, a separate, additional form (the “Young Voter Registration form”, which is at schedule 2 of the Bill) designed specifically for the registration of eligible under-16s will be distributed to households at the same time as the annual canvass form. Co-ordinating with the existing process in this way, rather than running a separate registration exercise, is intended to keep administration to a minimum and help ensure that the registration of young voters is as streamlined as possible. Each ERO will be responsible for compiling the data from these forms into a “Register of Young Voters” for his or her area. This Register will be separate from the local government register of electors, so that more stringent protections can be placed on the use of the information the Register of Young Voters contains.

16. This means that all voters for the referendum will be recorded in one of two registers: the local government register (if they would be at least 18 by 30 November 2015, and therefore included on that register as attainers), or the RYV.

17. Only EROs and their staff will have access to the RYV. There will be no edited version of the Register of Young Voters for wider distribution. Neither the RYV nor the completed young voter registration forms will be made available for inspection by members of the public. These restrictions are intended to keep the details of those on the Register as secure as possible. The local government register, which will hold the detail of the majority of voters (i.e. all voters except those on the RYV), will be unaffected and will continue to be available to a wider range of groups.

18. There are several groups who will need to access the names and addresses of all voters, including those on the RYV. These are:
   - Returning officers (known as “counting officers” for the purposes of the referendum), who need the information in order to administer polling.
   - The organisations that print and distribute poll cards to voters on behalf of counting officers.
This document relates to the Scottish Independence Referendum (Franchise) Bill (SP Bill 24) as introduced in the Scottish Parliament on 11 March 2013

- The organisations that prepare and distribute postal voting packs to postal voters on behalf of counting officers.
- The official campaign organisations for the referendum (referred to as the “designated organisations” in the Referendum Bill). The campaign organisations need all voters’ details so that they can each send every voter or household a postal communication in advance of the referendum. These communications will be used to set out the campaign groups’ positions on the referendum, so it is important that we ensure young people receive them so they are provided with the same information available to older voters before casting their vote.
- The Electoral Commission, in their capacity as the independent regulator and monitor of the referendum campaign.

19. In order to provide these groups with the information they need without compromising the security of the details of those on the RYV, before the details of young voters are provided they will be merged with the details of those drawn from the register of local government electors. Thus the groups listed at paragraph 18 will receive a single, merged polling list of all voters, which does not distinguish the details of young voters from the details of other voters. The arrangements for merging the registers and making them available to the groups above will be set out in the Referendum Bill.

Rolling registration

20. The majority of people register during the annual canvass. However, it is possible to apply to the register at any time of year by completing a registration form (available online or from EROs) and returning it to the local electoral registration office. An individual might register on this “rolling” basis when they move into a new area or change their address within an area. Between canvasses, the electoral registers are updated monthly to include the new or updated registration details EROs have received. This latest version of the local government register is the one that will be used in compiling the list of voters to be provided to counting officers for polling purposes.

21. The registration of young people who will be eligible to vote by the date of the referendum will mirror these arrangements. It is anticipated that the majority of young people would register to vote in the referendum through completion of the Young Voter Registration form distributed alongside the annual household canvass form, but they will also be able to register on a “rolling” basis until 11 working days before the referendum. The 11 day cut-off period is standard electoral administration practice and allows the EROs time to carry out any necessary checks and to compile lists of voters for use at polling stations. For the referendum, the applicant’s age will determine whether they are placed on the local government register or on the RYV:

- Applicants who will be at least 18 on 30 November 2015 will be added to the local government register of electors, under current arrangements.
- Applicants who will be 16 on the date of the referendum but will not have turned 18 by 30 November 2015 will be registered in the RYV, under the arrangements in the Franchise Bill.
22. The UK Government is introducing a new approach to registration, called Individual Electoral Registration (IER), from a date or dates to be determined in 2014. Under IER each individual, rather than the householder, will be responsible for registering themselves. They will then go through a verification process before they are added to the register. Once the transition to IER has begun in summer or autumn 2014, rolling applications to the local government electoral register will need to be made under the new system. However, these new arrangements will only apply to registration in the current electoral registers and will not be applied to the RYV. The Scottish Government is discussing with the UK Government how best to frame transitional arrangements for Scotland.

Registration of vulnerable young people

23. As described in paragraphs 17-19, the availability of the data contained in the Register of Young Voters will be restricted to ensure that young voters’ details are protected. However, there are still circumstances in which, to ensure utmost security, a young person should be able to register without disclosing their address.

24. Young people in these circumstances will, therefore, be able to make a “declaration of local connection” (which is made using a form available from EROs) to register as if they are resident at an address at which they have previously been resident, although it is not their current address. For example, a young person living with a foster family at an address they do not wish to disclose could register the declaration using their birth parents’ address. They could then be issued with a postal vote, which could be routed to them at their current residence or through an addressee of their choice (for example, the local authority responsible for their care). EROs will be expected to engage actively with local authorities and other bodies with responsibilities of care to promote awareness of these arrangements.

25. Declarations of local connection can also be used to enable young people without fixed addresses, for example travellers, to register. This is the arrangement already used for the registration of those 16 and over without fixed addresses.

26. Some young people will be able to apply to register to vote anonymously, as some local government electors are entitled to do. They would, however, need to satisfy the same requirements as applicants for anonymous voting currently do, which require evidence that there is a good reason for allowing anonymity.

Postal and proxy voting

27. Other registration and voting arrangements will be the same for 16 and 17 year old voters as they currently are for voters aged 18 and over. Those who will be at least 16 years old by the date of the referendum will be able to apply to vote by post. They will also be able to be designated as, and act as, proxy voters for other voters, and will be able to designate other voters to act as a proxy for them. These arrangements will only apply for the purposes of the referendum – young people will not be able to act as proxy voters at elections until they are of voting age for those elections (i.e. 18).
Electoral offences

28. The standard electoral registration offences set out in the Representation of the People Act 1983 will apply to the registration of those on the RYV. These include:

- providing false registration details;
- registering when not entitled to do so;
- making a false or fraudulent postal or proxy voting application.

29. It is already possible for a young person under 16 to commit, and be prosecuted for, any of these offences in relation to the parliamentary or local government electoral registers. Extending the franchise for the referendum, therefore, does not create new registration offences which a young person could not already commit.

30. Further voting offences relating to the conduct of the referendum will be covered in the Referendum Bill, but will not apply differently to voters of different ages.

ALTERNATIVE APPROACHES

31. It would be possible to compile a register of most voters under 18 years old who will be eligible to vote in the referendum by using the details of electors already collected through the annual household canvass. The annual canvass form collects the details of 16 and 17 year olds. The last household canvass before the anticipated referendum on independence is planned to commence in autumn/winter 2013/14. This means that the details of young people who were not at least 16 when the canvass was carried out, but who would be 16 by the date of the referendum, would not be captured by the canvass exercise.

32. The details of the majority of under-16s who will be eligible to vote in the referendum are held in local authorities’ education records. As an alternative to sending a Young Voter Registration form to every household in Scotland, EROs could have used the education records (to which they are being given access in the Bill, under schedule 1’s application of regulation 35 of the Representation of the People (Scotland) Regulations 2001) to identify which households were home to individuals in the target age group. The Young Voter Registration form could then have been sent to only these households. However, this approach could potentially have risked missing some households where an eligible young person was resident. It would also not have captured those eligible young people who do not appear on the local authority education records, for example those who have consistently been home-schooled. In order to ensure maximum coverage, and provide every opportunity for eligible people to register wherever they are resident, a Young Voter Registration form will need to be sent to every household (as the main canvass form is currently) to ensure that it reaches all electors.

33. Primary legislation is necessary to ensure that all 16 and 17 year olds are able to vote in the referendum. The annual canvass is the most convenient means for people to apply to the
This document relates to the Scottish Independence Referendum (Franchise) Bill (SP Bill 24) as introduced in the Scottish Parliament on 11 March 2013

register, and over 90% of households apply in this way, so registering young electors in conjunction with the annual canvass is felt to be the most straightforward approach.

CONSULTATION

34. The Scottish Government's consultation paper Your Scotland, Your Referendum, published in January 2012, consulted on the principle of extending the franchise to 16 and 17 year olds for the referendum. 24,777 respondents to the consultation commented specifically on this issue, and the majority of these respondents were broadly in favour of the policy. The independent analysis of consultation responses can be found at [http://www.scotland.gov.uk/Publications/2012/10/3849](http://www.scotland.gov.uk/Publications/2012/10/3849).

35. In December 2012 the Scottish Government carried out a targeted engagement exercise with key stakeholders on the technicalities of extending the franchise to 16 and 17 year olds. Electoral administrators, the Electoral Commission and child protection groups were invited to comment on the Government's proposed approach to implementing the extension of the franchise, and on an initial draft Bill.

36. The responses received from these stakeholders were largely positive. In particular, most respondents welcomed the Government’s proposals to ensure that data on young people is treated sensitively and responsibly while placing young voters on an equal footing to other voters and working within the existing electoral registration process as far as possible. EROs suggested a number of ways in which the legislation could facilitate the carrying out of their duties under the Bill. The majority of these suggestions either did not require legislation (for example, because they could be addressed administratively) or were reflected as the Bill was developed further. The Electoral Commission suggested several technical amendments to the draft Bill, which were taken into consideration in finalising the Bill. Another stakeholder noted that young voters would need to be able to verify whether they had successfully been registered on the RYV, and provision for this was incorporated into the Bill.

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EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.

Equal opportunities

37. The Bill extends the franchise to 16 and 17 year olds for the first time in a national poll, reflecting the Scottish Government’s policy that young adults should be able to participate in the democratic process. The Bill’s provisions are intended to ensure equality of opportunity for these young people in having their say in the referendum. Schedule 1 of the Bill extends standard electoral registration practice to the RYV, keeping registration arrangements for young people consistent with those for voters on the local government register as far as possible while making modifications to reflect the need to treat data on young people sensitively.

38. The arrangements that section 7 of the Bill puts in place to enable vulnerable young people to register (see paragraphs 23 to 26) are intended to ensure that registration is accessible to all young people, regardless of their living circumstances, and taking into account requirements for additional security of their addresses.

39. The Bill’s provisions do not impact on voters by virtue of their gender, race, disability, marital status, religion or sexual orientation.

Human rights

40. The Scottish Government is satisfied that the provisions of the Bill are compatible with the European Convention on Human Rights (ECHR). The publicly available register of local government electors is used, in line with election law and subject to the necessary safeguards to prevent impersonation and ensure a fair referendum. The Bill also applies existing criminal offences for the purposes of the RYV, where necessary, none of which are incompatible with Convention rights.

41. The Bill prohibits convicted prisoners who are detained in pursuance of their sentence from voting in the referendum. As discussed in paragraph 13, the Scottish Government is satisfied that this approach is compatible with the ECHR. Article 3 of Protocol 1 to that Convention, the right to free elections, does not create rights that would apply to an independence referendum.

42. Sharing electoral registers can engage Article 8 of the ECHR (the right to respect for private and family life). However, the Bill places greater restrictions on the availability and use of the RYV than is placed on other electoral registers. (For example, section 9 provides that only EROs and their staff will have access to the RYV, and it will not be published). Such data disclosure as is enabled by the Bill pursues legitimate aims under Article 8(2), principally to protect the rights of others by ensuring fairness at a referendum that uses the data. By allowing only certain persons access to the register, under safeguards, the provisions strike the right balance between the private life of the young individuals on the register and the public interest in running the poll.
Island communities

43. The Bill has no disproportionate effect on island communities.

Local government

44. The Bill requires EROs to carry out functions necessary to register under-16s who will be at least 16 years old by the date of the referendum, in addition to the registration activities they already undertake for other electors.

45. EROs’ costs are normally met through local authority budgets. The Scottish Government will reimburse EROs for the extra costs associated with extending the franchise to 16- and 17-year olds by virtue of the provisions in the Bill. The accompanying Financial Memorandum sets out these costs and the arrangements for reimbursing EROs.

Sustainable development

46. The Bill will have no impact on sustainable development.
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Parliament’s Standing Orders, in relation to the Scottish Independence Referendum (Franchise) Bill. It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed power. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

2. The contents of this Memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament.

Outline of Bill provisions

3. The Bill contains 15 sections and two schedules. It defines eligibility to vote in the referendum on Scottish independence to be held in 2014, and puts in place the arrangements necessary to enable those who will be 16 by the date of the referendum, but who will not be registered on the local government electoral register, to register to vote in that referendum. Specifically, it gives Electoral Registration Officers (EROs) a power to collect the information needed to register under-16s who will be 16 or over by the date of the referendum (and therefore eligible to vote in it). The Bill requires each ERO to collate the information on these young people into a Register of Young Voters for their area, and to maintain that Register. The Bill prohibits EROs from publishing the Register of Young Voters and applications to register in it. The forthcoming Scottish Independence Referendum Bill (the “Referendum Bill”) will include provision on how that register will be used for the purposes of running the referendum.

4. Further information about the Bill’s provisions is contained in the Explanatory Notes and Financial Memorandum published separately as SP Bill 24-EN, and in the Policy Memorandum published separately as SP Bill 24-PN.

Rationale for subordinate legislation

5. In deciding whether legislative provisions should be specified on the face of the Bill or left to subordinate legislation, the Scottish Government has had regard to:
the need for the legislation, including any subordinate legislation made under section 11, to be in force in sufficient time to allow EROs to carry out the duties the Bill places on them, particularly in relation to preparing for and carrying out the registration of young people during the household canvass which is planned for late 2013/ early 2014;

the need to provide the flexibility to respond to changing circumstances – for example, any technical issue arising from subordinate legislation made under the UK Parliament’s Electoral Registration and Administration Act 2013 - without the need for further primary legislation;

the desire to allow adjustments to the technical detail of electoral registration arrangements for the referendum to be made without the need for further primary legislation;

the fact that the Bill puts in place arrangements for a one-off event, and that the legislation will be in force only for a comparatively short period of time, with a sunsetting provision at section 14.

6. These considerations have led the Scottish Government to adopt the approach of setting out in the Bill the provision that is needed, rather than taking a power to make more detailed provision after enactment. Much of that provision is effectively identical to material contained in legislation that applies to Parliamentary and local government elections. Schedule 1 to the Bill therefore applies existing legislation with such modifications as are needed to fit it to the context of a referendum and younger voters. There is no need to take a power to set out the detail this existing legislation provides in further subordinate legislation.

7. However, these considerations also point to the need to be able to adjust or supplement provision if necessary. As a result, there is only one delegated powers provision in the Bill, which has been designed to give that ability.

Delegated power

8. The Bill contains the following delegated powers provision:

Section 11: Power to make supplementary etc. provision and modifications
Power conferred on: Scottish Ministers
Power exercisable by: Order
Parliamentary procedure: Affirmative procedure

Provision

9. Subsection (1) empowers the Scottish Ministers to make supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to, any provision made by the Bill. Subsection (2) provides that this includes power to make provision in consequence of, or in connection with, any provision in an Act (or proposed to be made in an Act) for the holding of an independence referendum. Such consequential or connected provision can also be made relating to any modification, or proposed modification, of legislation relating to electoral registration. Subsection (3) provides that such an order may modify any enactment, including the provision made by the Bill itself. It also provides that an order may apply, with or
without modifications, any provision of any enactment, and may include supplementary, incidental, consequential, transitory or transitional provision or savings. Subsection (4) requires that any such order must be laid in draft before the Scottish Parliament for approval.

Reason for taking this power

10. The Scottish Government has no specific intention for use of this power. As explained above, the power is being taken to provide the flexibility to make any necessary adjustments to the provision made by the Bill, or contained in legislation that makes relevant provision, that may be needed or desirable. It is important that this can be done swiftly, if needed, as EROs will need to begin to implement the matters covered by the Bill shortly after its enactment.

11. Given the close connections between this Bill and the forthcoming Referendum Bill, and the fact that this Bill is expected to be enacted before the Referendum Bill has completed the amending stages of its Parliamentary passage, it may be necessary to make adjustments to the provision made by this Bill to align it with amendments made to the Referendum Bill. Section 11(2)(a) is intended to address this possibility.

12. A further source of uncertainty is the UK Government’s timetable for implementing individual electoral registration. The recently enacted Electoral Registration and Administration Act 2013 provides for a transition from a registration system that relies significantly on an annual household canvass to a system in which each elector must apply individually to be registered to vote. Much of the legislative framework to implement that change will be provided through UK Parliament subordinate legislation, and that may impact on the provision made by the Bill, and the timescales for its implementation. A power to make further provision therefore seems prudent. Section 11(2)(b) is intended to address this possibility.

Choice of procedure

13. The Scottish Government recognises this power’s potentially broad application, including the facility to modify primary legislation, and for that reason any use of this power will require the high level of Parliamentary scrutiny attached to the affirmative procedure.
Referendum (Scotland) Bill Committee

1st Report, 2013 (Session 4)

Stage 1 Report on the Scottish Independence Referendum (Franchise) Bill

Published by the Scottish Parliament on 7 May 2013
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Referendum (Scotland) Bill Committee

Remit and membership

Remit:

To consider matters relating to The Scotland Act 1998 (Modification of Schedule 5) Order 2013, the Referendum (Scotland) Bill, its implementation and any associated legislation.

Membership:

Bruce Crawford (Convener)
Annabelle Ewing
Linda Fabiani
Patricia Ferguson
Rob Gibson
Annabel Goldie
Patrick Harvie
James Kelly (Deputy Convener)
Stewart Maxwell
Stuart McMillan
Tavish Scott

Committee Clerking Team:

Clerk to the Committee
Andrew Mylne

Senior Assistant Clerk
Claire Menzies Smith

Assistant Clerk
Stephen Fricker

Committee Assistant
Carol Mitchell
INTRODUCTION

The Committee and its role

1. The Referendum (Scotland) Bill Committee was established by the Parliament on 23 October 2012 to scrutinise the legislation that will provide the basis for the referendum on Scottish independence, to be held on 18 September 2014.

2. The Committee’s first task was to consider and report on the Scotland Act 1998 (Modification of Schedule 5) Order 2013 (SI 2013/242) (the “section 30 Order”).¹ This statutory instrument provided the agreed legal framework for two Bills – the Scottish Independence Referendum (Franchise) Bill (“the Franchise Bill”) and the Scottish Independence Referendum Bill (“the Referendum Bill”). The Committee’s report² on the draft Order was published on 23 November 2012, and the Parliament approved it on 5 December 2012. Following approval by the UK Parliament in January 2013, the Order was made on 12 February and came into effect the following day.

3. Since the Committee’s first report, it has focused its efforts on gathering evidence to enable scrutiny of the Franchise Bill at Stage 1, and this Report sets out the Committee's conclusions on the general principles of that Bill.

4. The Committee has also begun work on scrutinising the Referendum Bill, which was introduced into the Parliament on 21 March 2013. The Committee hopes to publish a Stage 1 Report on the Referendum Bill's general principles in autumn 2013.

² The Referendum (Scotland) Bill Committee, 1st Report 2012 (Session 4), The Scotland Act 1998 (Modification of Schedule 5) Order 2013 [draft], SP Paper 221.
Parliamentary scrutiny

5. The Scottish Independence Referendum (Franchise) Bill\(^3\) was introduced into the Scottish Parliament on 11 March 2013. The Bill was accompanied by Explanatory Notes,\(^4\) a Financial Memorandum, and a Policy Memorandum,\(^5\) as required by the Parliament’s Standing Orders.\(^6\)

6. The Referendum (Scotland) Bill Committee was confirmed by the Parliamentary Bureau as lead committee on the Bill on 19 March 2013. The only other committees with a role in Stage 1 scrutiny are the Subordinate Legislation Committee and the Finance Committee.

7. The Subordinate Legislation Committee (SLC) considered the Delegated Powers Memorandum\(^7\) and reported on 19 March 2013.\(^8\) The Finance Committee took evidence on the Bill’s Financial Memorandum on 20 March 2013, and subsequently wrote to the Committee, referring it to the Official Report\(^9\) of the evidence session.

Timetable for consideration of the Bill

8. The Referendum (Scotland) Bill Committee gave initial consideration to its timetable for scrutiny of both Government Bills on 13 December 2012. Noting the Scottish Government’s stated wish for the Franchise Bill to be passed before the summer recess 2013, the Committee agreed to take some initial evidence prior to the Bill’s introduction. It also agreed to write to the Deputy First Minister seeking further information on the likely timescale for both Bills.

9. In the Deputy First Minister’s response, she confirmed the Government’s intention that the Bill complete its parliamentary passage by the end of June 2013 and be in force by later in the summer. This was to enable electoral registration officers (EROs) to begin collecting data about prospective young

\(^3\) The Scottish Independence Referendum (Franchise) Bill, as introduced (SP Bill 24 Session 4 (2013)) Available at: http://www.scottish.parliament.uk/S4_Bills/Scottish%20Independence%20Referendum%20Franchise%20Bill/b24s4-introd.pdf.


\(^5\) The Scottish Independence Referendum (Franchise) Bill, Policy Memorandum (SP Bill 24-PM Session 4 (2013)) Available at: http://www.scottish.parliament.uk/S4_Bills/Scottish%20Independence%20Referendum%20Franchise%20Bill/b24s4-introd-pm.pdf.


\(^7\) The Scottish Independence Referendum (Franchise) Bill, Policy Memorandum (SP Bill 24-DPM Session 4 (2013)) Available at: http://www.scottish.parliament.uk/S4_Bills/Scottish_Independence_Referendum_Franchise_Bill_-_DPM.pdf.


voters as part of the annual household canvass (the collection of details from each household of those resident and eligible to vote) in the autumn of 2013.

Witnesses
10. Three pre-introduction evidence sessions were held on 31 January, and on 7 and 21 February. During these sessions, the Committee heard from the Scottish Assessors Association, the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) and from officials of three Crown dependencies that have already lowered their minimum voting age to 16 – Jersey, Guernsey and the Isle of Man.

11. A further three evidence sessions were held on 14, 21 and 28 March, following introduction of the Bill. At the first session, the Committee focused on the implications for young people, with evidence from two members of the Scottish Youth Parliament, the National Union of Students, Young Scot, Scotland’s Commissioner for Children and Young People, and from the Information Commissioner’s Office. The second session brought together key organisations with responsibility for the administration of the referendum – the Electoral Commission, the Electoral Management Board in Scotland, the Scottish Assessors Association, the Association of Electoral Administrators and the Association of Directors of Education in Scotland. At the final session, the Committee heard from the Deputy First Minister and her officials.

12. The Committee issued a call for written evidence immediately after the Bill’s introduction. Twenty-three submissions were received from a range of organisations and individuals.

13. Extracts from the minutes of relevant Committee meetings are attached at Annexe B. Links to Official Reports of oral evidence sessions, together with associated written submissions and other written evidence, comprise Annexe C. All the evidence received is available on the Parliament’s website.\(^{10}\)

14. The Committee extends its thanks to all those who provided oral evidence and written evidence on the Bill. The Committee is also grateful to its advisers (Iain Grant and Professor Stephen Tierney) for the expert advice they provided throughout the process.

BACKGROUND TO AND PURPOSE OF THE BILL

15. The purpose of the Bill is to make provision about the franchise for the referendum on independence that the Scottish Government wishes to hold on 18 September 2014.

16. The holding of an independence referendum is a long-standing commitment of the Scottish National Party (SNP). Since the party’s election as a majority administration in May 2011, it has been the Scottish Government’s intention to introduce legislation in the Parliament to provide for a referendum on independence in the autumn of 2014. The Edinburgh Agreement with the UK Government and the subsequent section 30 Order, referred to above, put

beyond doubt the Parliament’s legislative competence to pass the necessary legislation.

17. The SNP’s policy in relation to the referendum has also included for some time a commitment to lowering the voting age to 16. (Where it has the power to do, the Scottish Parliament has legislated to give the vote to 16 and 17-year olds – in relation to pilot health board elections in 2010, and in relation to elections to the Crofting Commission in 2011. However, the franchise at both Scottish Parliament and local government elections is a matter reserved to the UK Parliament.)

18. In January 2012, when the Scottish Government published its consultation paper (Your Scotland, Your Referendum) and associated draft Referendum Bill, it proposed lowering the voting age but not making any changes to existing provision about voter registration – according to which only those who would have reached the age of 18 before 1 December 2015 (usually described as “attainers”) would have been entitled to register to vote in a referendum held in autumn 2014. As a result, most of those who would have been 16 by the time of the referendum, although of “voting age”, would not in practice have been able to vote. In October 2012, following its consultation, the Scottish Government decided that it was necessary for the legislation to allow all 16 and 17-year olds to register. In order to have the relevant provisions in force in good time for the 2013 annual canvass, this made it necessary to separate out the franchise provisions into a “paving” Bill that could be taken through the Parliament more quickly than the main referendum bill.

Contents of the Bill

19. According to the Policy Memorandum (paragraph 9), the Bill “sets out who is entitled to vote in the referendum, including the requirement that voters be 16 or over; provides for collection of data on eligible young people whose details would not otherwise be collected as part of the next annual household canvass; provides for the compilation of a register from that data to be held separately from the other electoral registers and for the maintenance of that register; and sets out who will have access to it and data held on it”.

20. Other provisions that are relevant to the franchise, including how data from the register of young voters will be merged with data from the main electoral register to create a single “polling list”, are contained in the separate Referendum Bill.

21. The Policy Memorandum also explains (paragraphs 9 and 11) that the Scottish Government’s approach to extending the franchise to young voters is to strike a balance between putting them on an equal footing with other voters and the need to treat their data sensitively and responsibly.

22. The Bill is structured as follows:

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11 See the Health Boards (Membership and Elections) (Scotland) Act 2009 (asp 5), and the Crofting Commission (Elections) (Scotland) Regulations 2011 (SSI 2011/456).
• section 1 establishes a link with the main Referendum Bill

• sections 2 and 3 define the franchise for the referendum, including a minimum voting age of 16 and a prohibition on voting by convicted offenders

• sections 4-9 make provision for the preparation and maintenance of a separate “register of young voters”, and for restrictions on its publication

• section 10 provides for electoral registration officers’ expenses in relation to the Bill to be paid by the Scottish Government

• sections 11-15 make further general provision, including (section 11) delegating to Ministers a power to make “supplementary, incidental or consequential provision”, and (section 12) providing for the legislation to be repealed at the beginning of 2015

• schedule 1 applies existing electoral law with certain modifications

• schedule 2 sets out the canvass form for the register of young voters.

Consultation

23. The Scottish Government consulted on issues relating to the franchise, including the lowering of the voting age, in Your Scotland, Your Referendum, published in January 2012. The results of this consultation, published in October 2012, showed that 56% of respondents broadly agreed that the franchise should be extended to include 16 and 17-year-olds.\(^\text{13}\) In December 2012, a separate consultation exercise was conducted with a targeted group of stakeholders on some of the more technical issues involved in extending the franchise to 16 and 17-year olds. Copies of the relevant documentation, including an early draft of the Bill, were provided to the Committee and were useful background for the Committee’s pre-Stage 1 evidence-taking.

Financial implications

24. The Financial Memorandum estimates the costs attributable to the Franchise Bill as £358,000. This includes costs for the Scottish Government of around £240,000 for modifying existing electoral management software, and £25,000 for testing the young voter registration form. Local authority electoral registration officers (EROs) will incur specific extra costs at the time of the annual canvass, as they will be required to print young voter registration forms and then to issue reminders, at a total estimated cost of £56,000.\(^\text{14}\) They will


\(^{14}\) In the Financial Memorandum, £6,000 of this figure is attributed to issuing postal reminders. In a note to the Finance Committee dated 23 April 2013 (available at [http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/60762.aspx](http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/60762.aspx)), the Scottish Government indicated that, on reflection, this figure is “too low” and that it will provide revised estimates before Stage 3.
also incur costs estimated at around £37,000 in connection with their more general duties, including during the “rolling registration” process.

THE FRANCHISE

25. As set out in section 2 of the Bill, eligibility to vote in the referendum is to be based on the franchise for local government elections (and also used for Scottish Parliament elections), but with the minimum voting age reduced from 18 to 16. The Scottish Government estimates this reduction in voting age will add an extra 120,000 people to the franchise for the referendum.\(^\text{15}\)

26. Specifically, the eligibility criteria are:

- being 16 or over on the day of the referendum
- being registered in the register of local government electors or in the register of young voters (prepared under the Bill)
- not being subject to any legal incapacity to vote (which includes being a convicted offender in a penal institution)
- being a citizen of a Commonwealth country, the Republic of Ireland or another European Union country.

27. Registration for local government elections (under the Representation of the People Act 1983) depends on being resident in the relevant electoral area or being able to make a service declaration (if in the armed forces) or a declaration of local connection. Also, under the 1983 Act, Commonwealth citizens only qualify if they have, or do not require, leave to enter or remain in the UK.

28. The Committee notes the views of three people of Scottish origin living outside Scotland who submitted written evidence, who consider they should be entitled to vote but will not meet the residence criteria for registration.\(^\text{16}\)

29. The Committee agrees that the local government register is the appropriate basis for the franchise.

Minimum voting age

30. A number of witnesses expressed support in principle for the lowered voting age.

31. Robin Parker, President of NUS Scotland, said that his organisation, both at Scottish and UK levels had—

“for a long time supported the principle of votes at 16. It is extremely positive that the Scottish Government and the Westminster Government have agreed that we can extend the franchise for the referendum. Young people will have

\(^{15}\) Source: Financial Memorandum, footnote 4 on page 15.

\(^{16}\) Harry Hayfield (in relation to a friend living in the USA), CV Martin and Mrs H Mitchell, written evidence.
to deal with the consequences of the referendum, whichever way it goes, for the longest time, so we have to have the biggest stake in the decision."^{17}

32. The Scottish Youth Parliament, similarly, had campaigned for votes at 16 for more than a decade, and Emily Shaw MSYP said that it was “fantastic to see the principle being taken forward in the Bill”. She believed that 16 and 17-year-olds “can be just as informed as over-18s are, and it is important that they have a voice”. Andrew Deans MSYP said that votes at 16 had received a high degree of support among youth organisations and young people, including in a consultation with over 40,000 responses. He added: “We work with 16 and 17-year olds all the time, and we see that they are very much ready to vote”^{18}

33. Young Scot, although it did not normally adopt policy positions, was willing to support votes at 16 “because the feedback from other organisations and young people is that it is such an important issue”.^{19}

34. Tam Baillie, Scotland’s Commissioner for Children and Young People, said he had shaped his office around listening to the voices of children and young people “because I think that they have the same wisdom as many adults. I heartily support 16 and 17-year-olds getting the vote in the referendum”.^{20}

35. The change was also supported by Children in Scotland, and by the Electoral Reform Society (ERS) which said that “engagement of 16 and 17-year olds in important political debates is vital for the future health of our democracy”. ERS felt the Scottish Government’s original proposal to allow only “attainers” to vote would have “risked creating a ‘false franchise’” and perhaps allowed a basis for the result to be challenged, and so welcomed the change of approach following consultation.^{21}

36. One dissenting voice came from Charles Clegg, a 17-year-old high school pupil who felt that the existing age-limit of 18 had “proven itself to be neither broken nor in need of fixing” and was concerned that “the referendum has been used as a cloak to sneak in this reform without the consideration that it is due”.^{22}

37. Kate Crawford, of the Association of Electoral Administrators, raised a concern about creating a different franchise for the referendum, when the voting age in elections remained at 18. She said that EROs had tried to explain the position to young people but “they are not happy about being given the franchise for one thing but not for the other. They do not understand why that is happening”.^{23}

^{17} Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 226.
^{19} Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 228.
^{21} Electoral Reform Society, written evidence.
^{22} Charles Clegg, written evidence.
38. The Deputy First Minister explained the thinking behind the Government’s position—

“Young people obviously take on a range of important rights and responsibilities at 16, and we believe that they should have the opportunity to have their say on the future of the country of which they are part.”

39. She said that the Scottish Government had listened to concerns about its original proposal that would have allowed only attainers to vote. As a result, the Bill that had been introduced “puts in place arrangements to enable all 16 and 17-year-olds to register to vote and to take part in the referendum if they so wish. I hope that all of them do”.

40. Most of the political parties represented in the Parliament now have a policy in favour of lowering the voting age to 16 for all purposes. As a Committee, we have not reached a conclusion on this wider question, despite having received some evidence on the issue, mainly because it is both beyond our remit and outside the legislative competence of the Parliament.

41. The Committee acknowledges that lowering the voting age for the referendum, when there is no immediate prospect of it changing for elections, is not ideal, and carries some risk of confusing some young voters. Nevertheless, we believe that the Parliament should apply the principle of votes at 16 when it has the opportunity to do so – and particularly in connection with the historic choice the country faces in September 2014.

42. The Committee is aware that the successful participation of 16 and 17-year-olds in the referendum may impact on the wider debate in Scotland and the UK regarding the voting age for elections, and therefore places great importance on the smoothest possible implementation of the process of registration and promotion of participation.

43. The Committee endorses the extension of the franchise for the referendum to include 16 and 17-year-olds.

Convicted prisoners held in penal institutions

44. Section 3 of the Bill specifically prohibits convicted prisoners held in a penal institution at the time of the referendum from voting. Prisoners on remand are not included in this prohibition and so will be able to vote (as they can in elections) by postal or proxy vote.

45. The Explanatory Notes (paragraph 9) point out that this prohibition is identical to that made by section 3 of the 1983 Act for parliamentary and local government elections. They go on to say that the provision has been included

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26 Annabel Goldie dissented from this sentence.
27 Annabel Goldie dissented from this conclusion.
in the Bill “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”. The Policy Memorandum (paragraph 13) further explains that the UK Parliament proposals are in response to rulings by the European Court of Human Rights that a blanket ban on prisoners voting in elections to legislatures is inconsistent with the European Convention on Human Rights (ECHR), adding that the Court’s rulings, and relevant case-law, do not relate to referendums.

**ECHR compatibility**

46. The issue of the compatibility of section 3 of the Bill with ECHR was considered in more detail by the Committee’s adviser, Professor Stephen Tierney, in a paper for the Committee. The paper noted that the relevant provision of ECHR, Article 3 of Protocol 1 (A3P1) refers specifically to “elections” involving the people’s “choice of the legislature”, and referred to European Court decisions stating that A3P1 does not apply to referendums. Professor Tierney concluded that this provided a “convincing defence of the *vires* of section 3”, but noted that a challenge could still be brought. Although he was not persuaded such a challenge would be successful, there were some reasons for thinking that the outcome of such a challenge “may be unpredictable”.

47. The Law Society of Scotland also said that this provision “might be challenged” and pointed out that some solicitors appear “ready to act on behalf of aggrieved clients”. Like Professor Tierney, however, the Society concluded that such a challenge was “unlikely to be successful”.

48. The Deputy First Minister described the legal position as clear, and said that the Scottish Government had “taken account of all the legal considerations and arguments in coming to the position in the Bill”.  

49. The Committee notes the views of Professor Tierney and the Law Society of Scotland, and their conclusion that a challenge to section 3 on ECHR grounds is unlikely to succeed.

**Arguments of principle**

50. The principle of preventing convicted prisoners voting in the referendum was directly challenged in written evidence by a number of witnesses – in particular in a joint submission by the Howard League for Penal Reform, the Prison Reform Trust, SACRO, Positive Prison? Positive Futures and Professors Fergus McNeill and Mike Nellis. The submission received backing from the Scottish Association of Social Work and by Professor Alec Spencer, among others.

51. The submission notes that most other European countries give some voting rights to prisoners and suggests that voting should be seen as an inalienable right that cannot be removed as a punishment. It argues that Scotland imprisons too many people, and that a ban on prisoner voting “impacts

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28 Professor Tierney's paper is available from the Committee's web-page.
29 Law Society of Scotland, written evidence.
disproportionately on the most deprived and vulnerable”. The submission also argues that a ban on voting in the referendum would have an arbitrary impact, particularly in relation to those serving short sentences at around the time of the poll.\(^{31}\)

52. Other written evidence also opposed the ban on prisoners voting. Quakers Scotland, for example, argued that prisoner voting could “play a part in the process of desistance and rehabilitation”. Similarly, the Church of Scotland’s Church and Society Council based its opposition to section 3 on the principle that the criminal justice system should “reflect the aim of restoring broken relationships between the offender and the community”.\(^{32}\)

53. However, the Deputy First Minister rejected these arguments. She recognised that the position might have to change at UK level in relation to elections, but that was a matter for the UK Government.

“Right now, convicted prisoners who are serving prison sentences do not get to vote, and I do not consider that there is a good argument for changing the position for the referendum.

“People who do not commit crimes and do not get sent to jail will have the right to vote. That is a pretty simple principle.”\(^{33}\)

54. The majority view in the Committee is to support the Scottish Government’s position, namely that all convicted prisoners should be ineligible to vote in the referendum.\(^{34}\)

55. The Committee notes that remand prisoners, together with a small number of civil prisoners and people imprisoned for defaulting on a fine, will still be entitled to vote, and seeks assurances from the Scottish Government that the Scottish Prison Service is fully prepared to put procedures in place to ensure that these prisoners are able to register, to receive all relevant information about the referendum, and to exercise their right to vote.

Service personnel etc.

56. The Explanatory Notes explain how schedule 1 to the Bill applies, with some modifications, existing provisions in the 1983 Act on “service declarations”. These are a means for members of the armed forces (plus some Crown servants and employees of the British Council) and their spouses or civil partners to register to vote while posted overseas, and so unable to meet the normal residency requirements.

57. The Deputy First Minister recognised that there had been considerable interest in the issue of the rights of Scottish service personnel to vote in the referendum,

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\(^{31}\) The Howard League for Penal Reform and others, written submission.

\(^{32}\) Quakers Scotland, written submission; Church of Scotland (Church and Society Council), written submission.

\(^{33}\) Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 313.

\(^{34}\) Patrick Harvie and Tavish Scott dissented from this conclusion. See also Annexe B.
but said that some of the media reporting had been inaccurate. In particular, she said that there was no need for special arrangements to be made—

“The arrangements that are in place for the referendum will be the same as the arrangements that are already in place to allow service personnel to vote in elections to this Parliament. Service personnel who have lived in Scotland but are currently serving overseas or elsewhere in the United Kingdom will have the opportunity to register for and vote in the referendum, and EROs will be responsible for determining applications from service voters to register to vote, as they do for all voters.”

58. She went on to explain in more detail the three options available for service personnel to register – as an ordinary voter, if they can register at an address in Scotland; as a service voter, using a UK address that is either where they or their partner currently lives, where they would live if not serving in the forces, or where they last lived before taking up their post; or as an overseas voter. Around two-thirds of service personnel who register do so as ordinary voters, and around a third as service voters. Only about 1% register as overseas voters and only they would not be able to vote in the referendum (in common with other overseas voters).

59. Andrew Scallan of the Electoral Commission agreed that this range of options was comprehensive, but pointed out that it “is not available to all service personnel all of the time” – their ability to register depended on their particular circumstances and that it was for EROs “to make a determination based on the information provided”. John McCormick added that the Commission was cooperating with the Ministry of Defence to provide information on the registration options for service personnel, and on other matters.

60. Ken Macdonald, from the Information Commissioner’s Office, drew attention to a possible gap in relation to the children of service personnel. He noted that spouses and partners of service personnel living outside Scotland could make a service declaration, but that similar provision was not made for any of their children still living with them, who would “therefore be disenfranchised”. The Committee notes that this is the case at present.

61. The Committee notes the clear and unambiguous evidence given by the Deputy First Minister on the eligibility of service personnel (as outlined above in paragraphs 57 and 58), which she summarised as follows—

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38 Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 278.
“If somebody in the armed forces is eligible to vote in elections for the Scottish Parliament, they will be eligible to vote in the referendum. That is, with the exception of 16 and 17-year-olds, the same as for everybody else.”

62. On this basis, the Committee is content with the proposed franchise, as provided for in the Bill, in respect of service personnel. What matters now is that there is effective joint working between the Electoral Commission, EROs and the Ministry of Defence in order to provide information to these personnel about the registration options available to them.

63. The Committee urges the Scottish Government, in discussion with the UK Government, to explore all possible options for enabling young people to vote if they are of voting age and are only resident outside Scotland because the family has moved to be with a parent serving in the armed forces, and to report on this prior to the beginning of Stage 2.

ELECTORAL REGISTRATION

The annual canvass and rolling registration

64. The Scottish Assessors Association explained to the Committee how the process of electoral registration works. Brian Byrne said that the normal process is to have an annual household canvass that starts around September and finishes by 1 December. Joan Hewton added that the timings vary across local authority area depending on geographical factors, with EROs in rural areas starting earlier, sometimes in August, because they have greater distances to cover. For all areas, the household canvass “must be concluded and the register printed by 1 December”.

65. In addition, there is a process of “rolling registration” which allows individuals to add their names at any time, with the register then updated each month.

66. Brian Byrne said that the level of completeness of the register at any time fluctuated, but the percentage of the eligible population included was “in the 90s”. He added that the accuracy of the register was “a slightly different question”, as some people who were on the register might have moved since their details were last updated. Electoral Commission research had suggested that the register loses about 1% accuracy each time it is updated, but catches up again at the annual canvass.

67. The Deputy First Minister said that it was a decision for EROs in each local authority to decide when the annual canvass should start, but she expected it be “on or around 1 October in all parts of Scotland”. She said that having such a consistent start-date was generally desirable but doubted whether it would

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42 Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, cols 137.
make much difference if some parts of the country started a few days or even weeks on either side. However, she did not envisage imposing any start-date in legislation, as that would represent a departure from the normal voter registration process that the Scottish Government was generally trying to mirror for the referendum.  

68. The Committee agrees that wide discrepancies in the start-date are undesirable, and that local variations should be measured at most in days or perhaps weeks, but not months. The Committee is also content for an appropriate degree of national co-ordination to be achieved through existing mechanisms, without the need for any statutory imposition.

69. Towards the end of its inquiry, the Committee was made aware that the 2013 canvass has now been postponed by the UK Government. The deadline for publication of the revised register is now to be 10 March 2014 in Scotland, rather than 1 December 2013, and the start-date for canvass activity (including the distribution of canvass forms) is to be 1 October 2013 across Great Britain. The Committee understands this latter date will not prevent EROs from preparing for the canvass in advance – for example by arranging printing and checking information sources.

**Individual electoral registration**

70. A significant complicating factor is the introduction of individual electoral registration (IER) throughout Great Britain, following the enactment in January, by the UK Parliament, of the Electoral Registration and Administration Act 2013.

71. Under IER, the current household canvass will be replaced by a requirement on each eligible individual to register. The original intention was for the transition to the new system to begin after the June 2014 European Parliament elections, either in July or September 2014.

72. When the Committee took pre-Stage 1 evidence on the Bill, it explored in detail with the Scottish Assessors Association the implications of preparing for a referendum then thought likely to take place in October 2014, while at the same time overseeing a transition to IER. Brian Byrne described this as “a colossal amount of work”, warning that it also had “the potential to confuse some of the electors”. He felt that it would be preferable if the implementation of IER in Scotland could be delayed until after the referendum, adding that that “might depend on a relatively early date for the referendum”.  

73. By the time the Committee took evidence from the Deputy First Minister, it had become clear from the First Minister’s announcement the previous week that the referendum date would indeed be relatively early. She said that both governments had made it clear that they wanted “to ensure that the timescales

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of the two processes are compatible and that we minimise any adverse impact on the referendum, electors or electoral registration officers”. She was then able to tell us that the Cabinet Office had confirmed a few days earlier that transition to IER in Scotland “will not start until after the referendum – it will begin on or around 1 October 2014, to avoid unhelpful interaction with the referendum”.

74. The Committee understands that it will require the making of a statutory instrument under the 2013 Act by the UK Government to bring about the postponement of IER in Scotland. The Committee very much welcomes the agreement that has been reached to make this change, and looks forward to receiving confirmation in due course that it has been delivered.

REGISTER OF YOUNG VOTERS (RYV)

75. The Bill provides for a separate register of young voters (RYV) to be created to capture details of those young people who will be 16 or 17 at the time of the referendum, but who may only be 15 at the time they register.

Method of registration

76. The Policy Memorandum (paragraph 21) states that the registration of young people will mirror the arrangements for registration on the local government register. It anticipates that the majority of young people will register through completion of the young voter registration form (as set out in schedule 2 to the Bill) that will be distributed alongside the annual household canvass form, but will also be able to register on a “rolling” basis until 11 working days before the referendum.

77. The Deputy First Minister explained the thinking behind the Government’s approach—

“Co-ordinating with the existing process in that way rather than trying to run a separate registration process will ensure that the whole process is as simple as possible for the voter while keeping administrative costs to a minimum.”

78. Andrew Deans MSYP, however, questioned whether the Scottish Government had the balance right, as its “mindset” seemed to be that the household canvass was the preferred option, and that “rolling registration would be used a secondary, mop-up method”.

“attainers are often missed out on the household canvass when it comes to electoral registration; sometimes parents do not realise that they can put

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them on the register and often young people do not know that the process is happening.\(^{50}\)

79. He wanted to see more emphasis on rolling registration, and both he and Emily Shaw MSYP wanted to see the forms distributed in schools, youth clubs and other venues.\(^{51}\) Robin Parker of NUS Scotland agreed, saying that although the experience of student associations so far had been mixed, EROs needed to be “encouraged and given support to hold rolling registration events in schools, colleges and universities.”\(^{52}\) David McNeill from Young Scot was keen to explore an online means of enabling young people “to register themselves, rather than leaving it up to someone in their household”\(^{53}\).

80. Andrew Deans MSYP was also concerned about the form itself, which relied mainly on references to age to explain who was eligible to register, rather than date of birth. He felt this was “quite confusing; indeed, when the proposals first came out, we had to look through them a number of times to get straight in our heads just who is supposed to be registered where.” He felt that referring instead to those born between specified dates would “make things as clear as possible for parents who are filling in the household canvass”\(^{54}\).

81. The Scottish Assessors Association explained how EROs would use school records, to which they had good access, as a basis for getting young people’s details onto the register. Joan Hewton said that “one key way of getting the information would be to approach schools with a view to trying to get the school pupils to register, probably at the schools, although they would be registered at their home address”\(^{55}\).

82. She also explained that schools could provide pupils’ names and addresses, which would enable EROs to send out forms to the relevant households with the pupils’ names already included. One advantage of this was that “if we send out a form that is prepopulated with the name, we are more likely to get it back than if we send out a blank form”\(^{56}\). In addition, as Brian Byrne pointed out, it would enable EROs to take a more targeted approach to identifying those households that include young people of the relevant ages “rather than using blanket

\(^{50}\) Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 238.
\(^{52}\) Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 239.
\(^{53}\) Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 236.
\(^{54}\) Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 239.
\(^{56}\) Scottish Parliament Referendum (Scotland) Bill Committee, 31 January 2013, Official Report, col 144.
coverage and reaching every house in order to get to something like 45,000 people out of 4 million electors”.57

83. The Committee is generally content with the arrangements for creating and maintaining a separate Register of Young Voters (RYV) and agrees that both the household canvass and rolling registration should be used to encourage young people to register.

Protection of young persons’ data

84. Access to the RYV is to be strictly limited. However, the list of names it contains will be merged with the main electoral register, in advance of the referendum, to create a single polling list which will be available to the lead campaigns (designated organisations), but will not include dates of birth or other information that would enable younger voters to be identified. In this way, the Scottish Government aims to balance access for campaigners to information about voters with the need to provide additional protection for young people.

85. This approach was generally supported by witnesses. Brian Byrne endorsed the ideas behind it, including preventing access to information on young people for credit reference or to people buying the register, and limiting access to the register to those directly involved in the referendum. Kate Crawford, from the Association of Electoral Administrators, said that EROs were used to handling sensitive material and had safeguards in place. Bruce Robertson, for the Association of Directors of Education in Scotland, said that child protection was “paramount across education and children’s services” and wanted “absolute clarity on the use of the data once it is sourced and … to ensure that that data is used for the purpose for which it is required”.58

86. The Scottish Youth Parliament welcomed the additional safeguards contained in the Bill to ensure that the personal data of young people was protected.59 The Electoral Commission raised some concerns in written evidence, but confirmed in oral evidence that most of them related to the rules on access to the merged register, which are contained in the main Referendum Bill.60

Lessons from the Crown dependencies

87. The Committee took evidence from the Crown dependencies on whether data protection concerns had arisen when their electoral registers included young people for the first time. Michael de la Haye, Greffier of the States of Jersey, said this had not been a problem in Jersey, suggesting this was probably because “we have no system of selling or allowing our register to be used for other purposes; it is purely an electoral roll”. Jersey had resisted pressure from

59 Scottish Youth Parliament, Written Submission.
60 Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 279.
credit rating agencies to have access to the register on the same basis as in the UK.\textsuperscript{61}

88. Similarly, Paul Whitfield (Deputy Registrar General) said that data protection was “not seen to be a problem” in Guernsey because, as in Jersey, “date of birth is not recorded on the electoral roll”, and the roll was not used for any other purpose.\textsuperscript{62} In the Isle of Man, according to Stephen Carse (Registration Officer, Isle of Man Government), concerns were noted during the passage of the legislation, but no separate young voters register was created. He added that, for data protection reasons, no access was given to school rolls or other Government records to assist with data matching.\textsuperscript{63}

\textit{Retention of data from RYV}

89. On a separate but related data protection point, the Electoral Commission pointed out the impact of the “sunset clause” in section 14 of the Bill, which provides for the legislation to be repealed on 1 January 2015. This would not only end the obligation on EROs to maintain the RYV, but would also require the register to be destroyed – since, as Andrew Scallan explained, “data protection rules require organisations not to have information that they no longer need”. However, information from the RYV could be useful in helping to populate the normal electoral register with information about attainers – and there was “potentially a dilemma in there being information that could help in compiling the normal register but the law saying that the information is no longer needed after the referendum”.\textsuperscript{64}

90. Picking up the Electoral Commission’s point, Brian Byrne said—

“Generally, such information should certainly be destroyed if there is no other use for it. However, everyone on the register will be over 16 by then and it would be good information to use for individual registration, to avoid having to send all the people on it an application form to join the full register.”\textsuperscript{65}

91. He had suggested to the Cabinet Office that the RYV could be used to match data with that provided by the Department of Work and Pensions. But he recognised that child protection issues could prevent this, and that a change in the legislation would be needed to enable the register to be used in this way.

92. The Committee can see the rationale for retaining the RYV, rather than destroying it, so that the information it contains can be used to get attainers onto the local government register for subsequent elections. However, we recognise that this may raise certain issues concerning data protection. We

\textsuperscript{61} Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, col 174.
\textsuperscript{62} Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, col 180.
\textsuperscript{63} Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, col 195.
\textsuperscript{64} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 280.
\textsuperscript{65} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 284.
would encourage the Scottish Government to consider further with electoral professionals whether there is a satisfactory way of squaring the circle.

**Vulnerable young people**

93. A particular issue raised in evidence concerned the need for additional protection for vulnerable young people, including those subject to a non-disclosure order. Provision is made in the Bill for such young people either to be entered anonymously on the register, or to be registered at an address other than where they reside by making a “declaration of local connection” to (for example) an address from which they have been removed for their own safety.

94. Scotland’s Commissioner for Children and Young People, Tam Baillie, endorsed the idea of a separate register for young voters but questioned whether “the provisions or the criteria for anonymity take account of children who may be in care establishments or foster placements”. 66

95. Ken Macdonald from the Information Commissioner’s Office welcomed what he said had been “significant changes” since the draft bill but shared Tam Baillie’s concerns about anonymous registration which was, he said, “limited by particular restrictions in the Representation of the People Act 1983”. 67 He suggested it should be compulsory where a non-disclosure order was in force because of the risk the order could be accidentally breached. 68 He also wanted to see clearer information on the canvass form about the options of anonymous registration or use of a declaration of local connection. 69

96. Donald Urquhart, Chair of the Scottish Child Protection Committee Chairs Forum, told the Committee that Forum members were generally satisfied with the arrangements to allow vulnerable young people to register and vote without disclosing their address, and to afford sufficient protection to those subject to a non-disclosure order or who are vulnerable more generally. However, he too called for additional information about these options to be included in the canvass form, and asked for clarity about the information that would be provided to local authorities, social workers and other support staff. 70

97. On this last point, Andy O’Neill admitted the Electoral Commission had not so far given much attention to the particular needs of young people in care, but referred to previous work it had done in relation to older people in care and said it could do something similar, distributing guidance via councils and other

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70 Letter from Donald Urquhart, the Chair of the Scottish Child Protection Committee Chairs Forum to the Convener of the Referendum (Scotland) Bill Committee, 27 March 2013.
agencies. “We may have to work with various partners that we have never worked with before, but we could do that”.71

98. The Deputy First Minister promised to reflect on the points that had been raised and, although she felt they were more about improving guidance than the legislation, she promised to consider amendments to the Bill if they would provide additional clarity. 72

99. The Committee acknowledges the dialogue that the Scottish Government has had with child protection specialists, and the improvements made to the Bill since the consultation draft. We welcome the Scottish Government’s commitment to considering the concerns raised by witnesses, and particularly draw attention to the suggestion about including information in the canvass form about the right to register anonymously or using a declaration of local connection.

Commencement of right to apply to RYV

100. Section 13 of the Bill explicitly prevents any application for registration in the RYV being made before 1 December 2013. Brian Byrne of the Scottish Assessors Association said that “as we are likely to want to start canvassing on 1 October, that leaves a bit of a gap, which is an issue”.73

101. Stephen Sadler, speaking for the Scottish Government, said that the 1 December date had been set out before the referendum date was known and before the Government was aware from discussions with EROs that they hoped to start the canvass around 1 October. He added, “We intend to amend that date”.74

102. The Committee welcomes the Scottish Government’s commitment to bring forward the date on which applications to the RYV can be made, so as to tie in with when EROs anticipate beginning work on the annual canvass process.

Canvass form

103. Schedule 2 to the Bill contains the form to be used in the household canvass to enable young people to be registered on the RYV. It is being subject to independent testing by the Scottish Government.

104. As already noted, the Committee heard various suggestions about possible improvements to the form, particularly making greater use of dates of birth rather than age, and including guidance on the right to register anonymously or via a declaration of local connection.

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73 Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 293.
105. Another suggestion was for use of a different coloured paper to distinguish the RYV form from the main household canvass form – something that the Electoral Commission thought might help and suggested could be made part of the testing process.\textsuperscript{75} The Deputy First Minister was also receptive to the idea, noting that it could also help people with visual impairments. She was confident that the testing would be completed in good time, so that the Government would be able “to make any necessary amendments to the form before we get to Stage 2.”\textsuperscript{76}

106. The Committee is encouraged by what it has heard about the independent testing process and the Government’s willingness to consider suggestions from other sources. We expect the Scottish Government to keep us informed about the outcome of that process, and whether it expects to propose amendments as a result.

107. The Committee understands that applications for registration outwith the canvass period are not on a prescribed form but should meet the requirement of regulation 26 of the 2001 Regulations. The Committee would therefore ask the Scottish Government whether advice will be given to EROs on the form that should be used for an application by a young voter to be registered outwith the canvass period, and to explain what information is to be supplied with such a form to ensure that this is consistent with information given at the time of the annual canvass.

RAISING AWARENESS

108. As part of its wider scrutiny of the issues raised by the Bill, the Committee has taken considerable evidence on how voters, particularly young voters enfranchised for the first time, can be given the information they need about registering for and voting in the referendum.

109. The Committee is conscious that there is an overlap here between the Franchise Bill and the Referendum Bill, and that its forthcoming scrutiny of that Bill will provide a further opportunity to consider the points outlined below.

110. The Electoral Commission, which has the principal responsibility in this area, said that it refreshed its approach each time to reflect the particular circumstances – which included, in this instance, the unique challenge of engaging with younger voters. Andy O’Neill said that its main objective for the referendum was—

“to ensure that everyone who can register is registered and that all electors understand the date of the poll and to provide information on postal and proxy voting and how to complete the ballot paper”.

111. The Commission’s awareness campaign would be based around a leaflet or booklet, to be distributed to every household, which would be extensively tested

\textsuperscript{75} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 272.
\textsuperscript{76} Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 310, 322.
“to ensure it is clear and impartial and covers all the necessary topics”. Use would also be made of “television, radio, paid-for newspaper advertisements, posters and online activity”.77

112. Mr O'Neill said that the Commission regarded ensuring that all 15 to 17-year olds were registered as its “main challenge”. It was only starting to think about how to do this, but had no concerns about the timescale involved. It had started talking to the Association of Directors of Education in Scotland and made contact with Education Scotland; in the past it had worked with NUS Scotland, the Scottish Youth Parliament and Young Scot, among others. John McCormick added that the Commission had “a very well-established relationship with the communications network of specialists in each of the local authorities and, in partnership with the Electoral Management Board for Scotland and the communications network, we target specific events for the local population.”78

113. Questioned on the Commission’s expertise in social media, Mr McCormick insisted that it had the necessary resource already, including “a highly experienced website team” with a track record of successful animations. Andy O’Neill added that it was engaging a social media agency to advise it, and referred to the “Ballot box man” video it had previously produced and which was available online.

114. In its written evidence, NUS Scotland called for “comprehensive efforts” to be made to educate young people and “ensure they have the information and tools needed to take part in this historic vote”.79 In oral evidence, Robin Parker also suggested that “some kind of organisation, coalition or unit … be set up that can deliver awareness raising independently”.80

115. Young people also stressed the need for joint working, innovation and impartiality. Andrew Deans MSYP said that awareness raising was “definitely necessary”, adding that both campaign organisations and the Scottish Government “have a role in ensuring that clear, accessible and plain English information goes out to young people”. Engaging with young people not in education, including those with jobs or apprenticeships, would be more challenging and require more effort and thought.81

116. David McNeill said that Young Scot had direct communication channels with half a million young people, representing around 80% of those who will be 16 or 17 at the time of the referendum, and would use those channels to encourage young people to register for the referendum and to vote.82 Young Scot could

77 Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 264-5.
79 National Union of Students Scotland, written evidence.
81 Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 227, 244.
consider producing an app with information about registration – an idea that was supported enthusiastically by Emily Shaw MSYP.\textsuperscript{83}

\textit{Lessons from the Crown dependencies}

117. Speaking to us from Jersey, Michael de la Haye acknowledged that more could have been done in 2008, when under-18s were able to vote in island elections for the first time, to raise awareness. He said that more effort was made in 2011, in a campaign that used social media, including Facebook and Twitter, a website and media advertising. A humorous and irreverent YouTube video was commissioned, encouraging people to register and vote. Mr de la Haye had no empirical evidence on turnout among young voters, but said that there was “robust anecdotal data” suggesting that it was only around 10%. However, he said this could still be regarded as a success for the policy, and in any case young people in Scotland faced a simple and clear choice in the referendum, and so were unlikely to have “the difficulty that people have in Jersey in choosing ... from a long list of 50 and 60-year olds ... when they do not know what those people stand for”.\textsuperscript{84}

118. The experience in Guernsey was in some ways similar – the change in the law was made shortly before an election in 2008, leaving little time for preparation. Unlike in Jersey, however, the campaign of awareness raising had been – in Paul Whitfield’s view – very successful, with more than half the young people eligible to register doing so. He attributed this to election officials visiting all high schools and colleges to give presentations on the history of voting, why it was important and on the process involved, and on the use of Facebook to promote registration and a website to engage people in the awareness campaign.\textsuperscript{85}

119. In the Isle of Man, also, there was only limited time between the voting age being reduced and the first Tynwald elections using the new franchise, held in 2006. As a result, according to Stephen Carse, only around 34% of young people registered. More was done for the 2011 elections, with information sessions at a youth café, and the production of a film by a local college which was shown in all secondary schools, posted on YouTube and local websites, and advertised via Twitter. There was also more engagement with the press and coverage on radio. As a result, registration of young people went up to 60%, although the proportion of those who voted actually declined slightly from around 58% in 2006 to 54% in 2011.\textsuperscript{86}

\textit{Implications for turnout}

120. NUS Scotland pointed to the evidence from Guernsey as demonstrating how “with adequate resources and innovative methods, high turnout [of 16 and 17-
year olds] can be achieved”. 87 Similarly, David McNeill of Young Scot pointed to experience with Scottish Youth Parliament elections, where levels of participation ranged from less than 5% to 90%, depending on the ability of local authorities and schools to create a “buzz” about the election and the importance of voting. 88

121. Robin Parker of NUS Scotland anticipated a very high turnout, and said it was important that EROs had enough resources and that there were enough polling stations – including in community locations and in universities and colleges. 89

122. Mr Parker was receptive to the idea of setting an aspirational target of 50% turnout among young voters. However, Emily Shaw MSYP was less convinced, saying that having the right to vote at 16 was the real success, regardless of how many took this up – “we should not measure the success of the referendum on how many 16 and 17-year olds we get to turn out”. 90

123. The Deputy First Minister was not complacent about turnout, but said—

“My anecdotal experience from speaking to people about the referendum leads me to think that there will be a high turnout and that it will span all age groups.” 91

Information in schools
124. The Electoral Reform Society suggested that the Electoral Commission and EROs be “encouraged to undertake innovative approaches to ensuring as high a registration as possible of 16 and 17-year olds”. This could include registration through schools, as already happens in Northern Ireland. As well as promoting awareness among young people of their right to vote, this “could include the possibility for them to formally debate the issues amongst their peers.” Safeguards would be needed that this sort of citizenship education was not partisan, but ERS was confident that modern studies teachers and other professionals could incorporate this into their teaching – adding that “timidity” about using the referendum to “encourage young people’s consideration of governance, citizenship and democracy … would be a missed opportunity”. 92

125. According to Robin Parker, clear guidance to schools was needed so that young people could question those involved in campaigning in an appropriate way, but he did not support an “open-door” policy. He was also keen on

87 National Union of Students Scotland, written evidence.
92 Electoral Reform Society, written evidence.
promoting a “peer-led” approach, in which young people would take the lead in educating each other on the issues.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 229.}

126. Witnesses were united on the importance of impartiality in the information provided through schools. Gordon Blair wanted to see “a robust framework” within which local authorities, including education services “can engage pupils in a neutral way”.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, cols 206-8.}

127. Robin Parker suggested “a registration information campaign that could produce teaching materials on a range of issues and areas of study specifically for the independence referendum” – but such a campaign would need to be completely independent.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 234-4.}

128. Tam Baillie, Scotland’s Commissioner for Children and Young People, said the aim should be to “raise awareness of the process and the right to vote – that is quite different from the political debate”. He expected many schools and colleges would hold mock referendums – which, to him, fitted perfectly with many of the themes of the curriculum for excellence. Overall, he saw the referendum as “democracy in action” and a “great opportunity” to engage young people, though he recognised the need to be careful about “politicisation”.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, cols 250-1.}

129. Evidence from the Crown dependencies pointed up similar issues. In Jersey, the education ministry decided in 2008 not to allow any candidates into schools, but in 2011 did allow schools to organise youth hustings involving all the local candidates. In Guernsey, individual candidates were allowed to visit schools, but only to talk about the process and not to promote their own candidacy. Similarly, Stephen Carse said that election officials in the Isle of Man were able to facilitate events in schools that involved individual candidates so long as it was to encourage registration or participation.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 7 February 2013, Official Report, cols 175, 182; Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, col 198-9.}

130. Kate Crawford from the Association of Electoral Administrators explained some of the work that she had been involved in as an ERO in Renfrewshire, which included workshops in schools about the voting process, mock elections and exercises in which pupils are given a budget to spend on a local project with the aim of winning a prize. After going through this process, 83% of pupils registered to vote, and about 70% said they were more likely to vote as a result.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 288-9.}
131. Both the MSYPs that we heard from felt that the availability and quality of modern studies and political and social education (PSE) was variable across the country. Andrew Deans MSYP felt that the referendum provided an opportunity to see how it could be improved.\textsuperscript{99} Kate Crawford agreed that “work is needed with all pupils, not just those who take modern studies”, and suggested that EROs could “hijack the PSE period and use it to get the message out to as many pupils as possible”.\textsuperscript{100}

132. Emily Shaw MSYP acknowledged that there was a balance to be struck between providing information in schools and the need to ensure people were able to concentrate on their studies, but felt that the referendum was a “once-in-a-lifetime opportunity for young people to have their say on the future of Scotland”.\textsuperscript{101} Robin Parker (NUS Scotland) went further, seeing a “strong synthesis” between a campaign of awareness raising in schools and the purpose of education, which he described as “setting people up to be successful citizens”.\textsuperscript{102} Bruce Robertson, from the Association of Directors of Education in Scotland, said that information about the referendum would be provided at times when pupils are already expected to focus on matters other than qualifications, although it would have “spin-offs” into other areas. He described this as “the happy balance that we need to strike”.\textsuperscript{103}

133. More generally, Mr Robertson wanted to encourage young people, wherever they lived, to understand the process and engage in the debate. This required national agencies to “work to the same set of standards and approaches, so that there are no mixed messages”. This should not depend on the attitude of individual headteachers – “we need to establish clear guidance, so that young people, parents, carers and educators understand the rules of engagement”. He also recognised a need to engage with young people themselves, and felt that YouthLink Scotland could play an important co-ordinating role.\textsuperscript{104}

Duties to promote registration and participation

134. A particular issue was whether further clarification was needed in the Bill about the role of bodies other than the Electoral Commission to promote registration and participation in the referendum. NUS Scotland suggested that the existing duty on the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) to promote elections should be extended to cover the referendum as well. Gordon Blair, representing SOLAR, said that clarity was

\textsuperscript{100} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 291.
\textsuperscript{101} Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 231.
\textsuperscript{102} Scottish Parliament Referendum (Scotland) Bill Committee, 14 March 2013, Official Report, col 231.
\textsuperscript{103} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 292.
\textsuperscript{104} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, cols 290, 293.
needed in the legislation over the powers of local officials, as well as the Electoral Commission, to encourage participation in the referendum.\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 21 February 2013, Official Report, cols 206, 208.}

135. The Deputy First Minister promised to consider the evidence, including that from NUS, but said that her strong view was that the provisions already in the Bill were sufficient. She pointed out that the Electoral Commission would “have a statutory responsibility to raise awareness and understanding of the voter registration process” and would “need to work with a range of organisations, including local authorities and schools, to ensure that they do what is required of them”. She did not see awareness raising in schools as a distraction for pupils, but rather as something that would be “good for their development and for how informed they are as citizens”, adding that it was “ultimately for headteachers and education authorities to determine what happens in schools.”\footnote{Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, cols 306-7, 321.}

Conclusions
136. The Committee agrees with witnesses that the key points about awareness-raising are the need for a coordinated approach, based on clear guidance, that maintains political impartiality. The Electoral Commission has a central role to play in this process, working collaboratively with many other organisations.

137. The Committee is not persuaded that bodies other than the Electoral Commission need a duty in law to encourage participation. However, we would expect the Commission to develop, in good time, a detailed delivery plan to promote effective joint working, to clarify what it expects from others, and to ensure an appropriate degree of consistency across Scotland.

138. In terms of raising awareness among younger voters in schools, the Committee is confident that those involved at local level, including EROs and teachers, already understand what is required, and are experienced in engaging young people in issues of citizenship in an appropriate and non-partisan way that complements rather than competes with the rest of their education.

OTHER ISSUES

Equal opportunities
139. The Committee has noted above how using a different coloured canvass form for the register of young voters could assist those with a visual impairment. On a similar theme, the National Deaf Children’s Society (NDCS), in written evidence, drew attention to the particular needs of young people with hearing loss, and the barriers they often face in engaging and participating in society. The Society said that communication methods needed to take account both of the range of needs that young deaf people had, and their various methods of communication (including British Sign Language). As their literacy levels were generally lower, the Society said it was important “to make any messaging
accessible, without being patronising, and to communicate information clearly and simply.\textsuperscript{107}

140. The Electoral Commission confirmed that it would make sure the language it used in any material it produced was tested for its suitability for all sections of society – including, in this instance, those in the 15-17 age-group. It also confirmed its materials would be available in Gaelic, and in minority ethnic languages, as well as in English.\textsuperscript{108} The Deputy First Minister made a similar commitment, saying “We will certainly take great care – in language provision and in the way we present the material – to make it as accessible as possible to everybody who has the right to vote in the referendum.”\textsuperscript{109}

141. The Committee welcomes these assurances, and looks forward to seeing information provided in a wide range of languages and formats, using simple and accessible language as far as possible.

Financial issues

142. As already noted, a number of witnesses have drawn attention to the importance of ensuring that awareness-raising is sufficiently well resourced.

143. The Electoral Commission confirmed that it had a budget of £1.8 million for advertising, including on TV and radio, online, and via printed material, and that it was satisfied overall that it would have sufficient resources.\textsuperscript{110} The Deputy First Minister said that she was also satisfied that the Commission would have the funding it required.\textsuperscript{111}

144. The Finance Committee took oral evidence on the Bill’s Financial Memorandum from Scottish Government officials on 20 March 2013. It had no particular comment to make, but wrote to the Committee directing it to the Official Report of its meeting.

145. The Committee notes the evidence given to the Finance Committee and considers itself satisfied with the information provided in the Financial Memorandum.

Delegated powers

146. The only provision in the Bill that includes a delegated power is section 11, which allows Ministers, by order, to make “such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act”. That includes the power to modify any enactment, including the Bill itself, and so is

\begin{thebibliography}{99}
\bibitem{107} National Deaf Children’s Society (NDCS), written evidence.
\bibitem{109} Scottish Parliament Referendum (Scotland) Bill Committee, 21 March 2013, Official Report, col 318.
\bibitem{110} Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 270-1.
\bibitem{111} Scottish Parliament Referendum (Scotland) Bill Committee, 28 March 2013, Official Report, col 322.
\end{thebibliography}
what is sometimes referred to as a “Henry VIII” power. Orders made under the section are subject to the affirmative procedure.

147. In the Delegated Powers Memorandum, the Scottish Government says that it “has no specific intention” to use this power, but has included it “to provide the flexibility to make any necessary adjustments” to the relevant legislation – adding that—

“It is important that this can be done swiftly, if needed, as EROs will need to begin to implement the matters covered by the Bill shortly after its enactment.”

148. The Subordinate Legislation Committee, in its report on the Bill, concluded that—

“While the powers have considerable scope, the Committee considers that it is sensible to be able to make any necessary modifications to ensure the Bill operates effectively together with the referendum Bill. It will also be necessary to take into account any changes to the provisions concerning the electoral register on which part of the franchise is to be based. Accordingly, the Committee considers that the power is acceptable in principle.”

149. This Committee, too, has considered section 11 carefully, noting that Henry VIII provisions are relatively unusual and should require particular justification. While we recognise that the scope of the section 11 power is wide, we note that it can only be used for purposes directly connected with the relatively narrow provisions of this Bill, and only for a limited period. We also note that any exercise of the power would require the specific approval of the Parliament. On this basis, and in view of the importance of ensuring that any unforeseen legislative obstacles to the holding of the referendum in the manner intended can be quickly resolved, the Committee is content with the drafting of section 11.

GENERAL PRINCIPLES OF THE BILL

150. Although the Committee has noted particular issues and concerns in the course of this report, it is generally content that the Bill delivers an appropriate franchise for the referendum, and the means to ensure that all those entitled to vote are able to register accordingly. The Committee therefore recommends to the Parliament that the general principles of the Scottish Independence Referendum (Franchise) Bill be agreed to.\textsuperscript{112}

\textsuperscript{112} Annabel Goldie dissented from this conclusion on the basis that she does not support the extension of the franchise for the referendum to 16 and 17-year olds.
ANNEXE A: REPORTS FROM OTHER COMMITTEES

Subordinate Legislation Committee

19th Report, 2013 (Session 4)

INTRODUCTION

1. At its meeting on 19 March 2013, the Subordinate Legislation Committee considered the delegated powers provision in the Scottish Independence Referendum (Franchise) Bill (“the Bill”) at Stage 1. The Committee submits this report to the Referendum (Scotland) Bill Committee as lead committee for the Bill under Rule 9.6.2 of Standing Orders.

OVERVIEW OF THE BILL

2. The Scottish Independence Referendum (Franchise) Bill is a Scottish Government Bill which was introduced to Parliament on 11 March 2013.

3. The Bill is the first of two Bills which will provide for a referendum to be held on the independence of Scotland from the rest of the United Kingdom. This Bill provides the rules for who will be entitled to vote in an independence referendum. The second Bill will provide for the holding of an independence referendum.

4. Section 2 of the Bill provides that a person is entitled to vote in an independence referendum if the person is:

   - aged 16 or over;
   - registered in either
     - the register of local government electors for any area in Scotland or
     - the register of young voters which the Bill establishes under section 4;
   - not subject to any legal incapacity to vote (other than on account of their age); and
   - a citizen of the Commonwealth, the Republic of Ireland (RoI) or a citizen of the European Union (other than a Commonwealth or RoI citizen).

5. Section 3 provides that convicted persons who are detained in prison (or who are unlawfully at large when they should be detained) are not entitled to vote.

6. The remaining provisions of the Bill provide for the preparation and maintenance of a register of young voters (RYV). The RYV will contain the names of those persons who are too young to be registered in the register of local government electors but who meet the requirements for registration and have attained the age of 16 or will attain that age on or before the date on which the poll at an independence referendum is to be held.

7. There is one delegated power in the Bill. The Scottish Government has provided a Delegated Powers Memorandum (“DPM”) setting out the need for the delegated
Section 11: Power to make supplementary etc. provision and modifications.

Power conferred on: Scottish Ministers
Power exercised by: Order
Parliamentary procedure: Affirmative

8. Subsection (1) empowers the Scottish Ministers to make supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to, any provision made by the Bill. Subsection (2) provides that this includes power to make provision in consequence of, or in connection with, any provision in an Act (or proposed to be made in an Act) for the holding of an independence referendum. Such consequential or connected provision can also be made relating to any modification, or proposed modification, of legislation relating to electoral registration. Subsection (3) provides that such an order may modify any enactment, including the provision made by the Bill itself. It also provides that an order may apply, with or without modifications, any provision of any enactment, and may include supplementary, incidental, consequential, transitory or transitional provision or savings. Subsection (4) requires that any such order must be laid in draft before the Scottish Parliament for approval.

9. While the powers have considerable scope, the Committee considers that it is sensible to be able to make any necessary modifications to ensure the Bill operates effectively together with the referendum Bill. It will also be necessary to take into account any changes to the provisions concerning the electoral register on which part of the franchise is to be based. Accordingly, the Committee considers that the power is acceptable in principle.

10. As the power would allow textual amendment to primary legislation and having regard to the high degree of political significance of the subject matter, the Committee considers that the affirmative procedure is the correct level of scrutiny.

11. The Committee finds the proposed power acceptable in principle and is content that it is subject to the affirmative procedure.

Finance Committee
Letter from Convener

The Finance Committee took oral evidence from Scottish Government officials on the Scottish Independence Referendum (Franchise) Bill’s Financial Memorandum (FM) at its meeting on 20 March 2013. The Committee raised a number of issues in relation to the FM and agreed to refer the Official Report of the evidence session to the lead Committee for consideration in advance of its oral evidence session with the Deputy First Minister on 28 March.
The Official Report can be accessed via the link below: http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/29824.aspx
The witnesses also undertook to submit additional written evidence in relation to the following topics:

- Figures from Electoral Registration Officers on number of registration appeals (paragraph 21 of FM)
- Figures from Crown Office on number of prosecutions for electoral offences (paragraph 22 of FM)
- Further information on the costs of reminder notices (paragraph 14 of FM).

I have requested that this additional information be provided as quickly as possible and will arrange for it to be sent to your clerks as soon as it becomes available.

Kenneth Gibson MSP
Convener
22 March 2013
ANNEXE B: EXTRACTS FROM THE MINUTES OF THE REFERENDUM (SCOTLAND) BILL COMMITTEE

6th Meeting, 2012 (Session 4), Thursday 29 November 2012

Proposed Government Bills: The Committee provisionally agreed to seek approval for the appointment of an adviser or advisers in connection with scrutiny of forthcoming Government Bills and to consider a shortlist of candidates in private at its next meeting.

7th Meeting, 2012 (Session 4), Thursday 13 December 2012

Proposed Government Bills: The Committee gave preliminary consideration to its approach to scrutiny of proposed Government Bills. It agreed to write to the Deputy First Minister seeking more detail on the proposed "paving Bill" and the main Referendum Bill, and on the expected timescales. It also agreed to take some general evidence ahead of introduction of the proposed Bills from those with experience of electoral administration, particularly where a lower minimum voting age has been applied.

Proposed Government Bills (in private): The Committee considered a list of candidates for the post of adviser. It agreed in principle to appoint one adviser on the practical and technical aspects of the proposed legislation, but to allow more time for further candidates to be identified, and one adviser on the legal and constitutional aspects, subject to confirmation of the availability of its preferred candidate.

1st Meeting, 2013 (Session 4), Thursday 17 January 2013

Work programme: The Committee considered correspondence from the Deputy First Minister and the implications for its timetable for scrutiny of proposed Government Bills. The Committee agreed the timetable for its scrutiny of the proposed franchise bill. [...] 

Proposed Government Bills (in private): The Committee agreed a ranked list of candidates for appointment as adviser in connection with the practical and technical aspects of scrutiny of proposed Government Bills.

2nd Meeting, 2013 (Session 4), Thursday 31 January 2013

Proposed referendum franchise bill: The Committee took oral evidence from—

Brian Byrne, Chair of the Electoral Registration Committee, and Joan Hewton, Assessor and Electoral Registration Officer for Lothian, Scottish Assessors' Association.
Work programme: The Committee [...] agreed to seek an informal briefing from Scottish Government officials on the proposed franchise bill.

3rd Meeting, 2013 (Session 4), Thursday 7 February 2013

Proposed referendum franchise bill: The Committee took oral evidence, by video conference, from—

Michael de la Haye, Greffier of the States (Clerk of the States Assembly - Jersey), States of Jersey

Paul Whitfield, Deputy Registrar General of Electors (Electoral Roll), States of Guernsey.

4th Meeting, 2013 (Session 4), Thursday 21 February 2013

Proposed referendum franchise bill: The Committee took oral evidence by video conference from—

Stephen Carse, Registration Officer, Isle of Man Government

and took oral evidence from—

Gordon Blair, Depute Returning Officer, West Lothian Council and Chair of the Elections Working Group, Society of Local Authority Lawyers and Administrators in Scotland (SOLAR).

Proposed referendum franchise bill: The Committee considered its approach to the scrutiny of the proposed bill at Stage 1, agreed a general call for written evidence and agreed those from whom it wished to invite oral evidence. The Committee also agreed to consider the themes on which its approach to taking oral evidence at Stage 1 of the Bill should be based, in private, at its next meeting.

5th Meeting, 2013 (Session 4), Thursday 7 March 2013

Proposed referendum franchise bill (in private): The Committee considered and agreed a list of key themes for Stage 1 of the proposed bill.

6th Meeting, 2013 (Session 4), Thursday 14 March 2013

Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Bill at Stage 1 from—

Andrew Deans MSYP, and Emily Shaw MSYP, Scottish Youth Parliament;

Robin Parker, President, National Union of Students Scotland;
Annexe B

David McNeill, Entitlements and Rewards Director, Young Scot;
Tam Baillie, Scotland's Commissioner for Children and Young People;
Dr Ken Macdonald, Assistant Commissioner (Scotland & Northern Ireland), Information Commissioner's Office.

7th Meeting, 2013 (Session 4), Thursday 21 March 2013

Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Bill at Stage 1 from—

John McCormick, Electoral Commissioner for Scotland, Andrew Scallan, Director of Electoral Administration, and Andy O’Neill, Head of Office Scotland, Electoral Commission;
Mary Pitcaithly, Convener, and Chris Highcock, Secretary, Electoral Management Board;
Brian Byrne, Chair of the Electoral Registration Committee, Scottish Assessors' Association;
Kate Crawford, Chair of the Scotland and Northern Ireland Branch, Association of Electoral Administrators;
Bruce Robertson OBE, Education Policy Adviser, Association of Directors of Education in Scotland.

8th Meeting, 2013 (Session 4), Thursday 28 March 2013

Decisions on taking business in private: The Committee [...] agreed to review the evidence received on the Scottish Independence Referendum (Franchise) Bill in private at its next meeting.

Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Bill at Stage 1 from—

Nicola Sturgeon, Deputy First Minister, and Stephen Sadler, Head of Elections Team, Scottish Government.

9th Meeting, 2013 (Session 4), Thursday 18 April 2013

Scottish Independence Referendum (Franchise) Bill (in private): The Committee considered the main themes arising from evidence received, in order to inform the drafting of its Stage 1 report.
10th Meeting, 2013 (Session 4), Thursday 25 April 2013

1. **Decisions on taking business in private:** The Committee agreed to take item 2 in private and agreed that any further consideration of the draft Stage 1 report on the Scottish Independence Referendum (Franchise) Bill be taken in private at future meetings. […]

2. **Scottish Independence Referendum (Franchise) Bill (in private):** The Committee considered a draft Stage 1 report. Various changes were proposed and decided on (one by division), and the Committee agreed to consider a revised draft at its next meeting.

**Record of division in private**

Patrick Harvie proposed replacing the draft conclusion on the franchise (prisoner voting) with the following:

“While noting the evidence received that there is a low chance of a successful legal challenge to the bar on prisoners voting in the referendum, the Committee takes the view that there is a strong argument in principle that the franchise for the referendum should apply the same human rights standards as the ECHR requires for elections to a legislature. The Committee notes that the Scottish Government has suggested, in Scotland's Future: from the Referendum to Independence and a Written Constitution, that human rights should be embedded in Scotland’s constitution, and does not consider section 3 of the Bill to be in keeping with the spirit of that aspiration.

“The Committee seeks clarity from the Scottish Government on the reason in principle why the franchise for the referendum should differ from the franchise for elections, in the event that the UK Parliament brings the electoral franchise into compliance with the ECHR.

“The Committee is persuaded of the view that the referendum offers an opportunity to demonstrate a strong human rights ethos, by allowing prisoners serving sentences of less than six months to vote.”

The proposal was disagreed to (by division): For 2 (Patrick Harvie, Tavish Scott), Against 9 (Richard Baker, Bruce Crawford, Annabelle Ewing, Linda Fabiani, Patricia Ferguson, Rob Gibson, Annabel Goldie, Stewart Maxwell, Stuart McMillan), Abstentions 0.

11th Meeting, 2013 (Session 4), Thursday 2 May 2013

**Scottish Independence Referendum (Franchise) Bill (in private):** The Committee considered a revised draft Stage 1 Report. Subject to a few minor changes, the report was agreed for publication. The Committee agreed to delegate to the Convener responsibility for finalising a news release.
ANNEXE C: ORAL AND WRITTEN EVIDENCE

Oral evidence

2nd Meeting, 2013 (Session 4), Thursday 31 January 2013

Brian Byrne, Chair of the Electoral Registration Committee, and Joan Hewton, Assessor and Electoral Registration Officer for Lothian, Scottish Assessors Association.

Correction to evidence by Brian Byrne, Scottish Assessors Association

3rd Meeting, 2013 (Session 4), Thursday 7 February 2013

Michael de la Haye, Greffier of the States (Clerk of the States Assembly - Jersey), States of Jersey;

Paul Whitfield, Deputy Registrar General of Electors (Electoral Roll), States of Guernsey.

4th Meeting, 2013 (Session 4), Thursday 21 February 2013

Stephen Carse, Registration Officer, Isle of Man Government

Gordon Blair, Depute Returning Officer, West Lothian Council and Chair of the Elections Working Group, Society of Local Authority Lawyers and Administrators in Scotland (SOLAR)

Clarification of evidence provided by Stephen Carse, Isle of Man Government

6th Meeting, 2013 (Session 4), Thursday 14 March 2013

Andrew Deans MSYP and Emily Shaw MSYP, Scottish Youth Parliament

Robin Parker, President, National Union of Students Scotland

David McNeill, Entitlements and Rewards Director, Young Scot

Tam Baillie, Scotland's Commissioner for Children and Young People

Dr Ken Macdonald, Assistant Commissioner (Scotland & Northern Ireland), Information Commissioner's Office
7th Meeting, 2013 (Session 4), Thursday 21 March 2013

John McCormick, Electoral Commissioner for Scotland, Andrew Scallan, Director of Electoral Administration, and Andy O'Neill, Head of Office Scotland, Electoral Commission

Mary Pitcaithly, Convener, and Chris Highcock, Secretary, Electoral Management Board for Scotland

Brian Byrne, Chair of the Electoral Registration Committee, Scottish Assessors Association

Kate Crawford, Chair of the Scotland and Northern Ireland Branch, Association of Electoral Administrators

Bruce Robertson OBE, Education Policy Adviser, Association of Directors of Education in Scotland

8th Meeting, 2013 (Session 4), Thursday 28 March 2013

Nicola Sturgeon, Deputy First Minister, and Stephen Sadler, Head of Elections Team, Scottish Government

Written evidence

Children in Scotland
Church of Scotland, Church and Society Council
Charles Clegg
Kingsley Dawson
Electoral Commission
Electoral Reform Society Scotland
Harry Hayfield
Howard League for Penal Reform in Scotland (and others)
Howard League for Penal Reform in Scotland (and others) - supplementary submission
International Alliance for Youth Coalition
Law Society of Scotland
CV Martin
Mrs H Mitchell
Clare F Moran
National Deaf Children's Society
National Union of Students Scotland
Quakers Scotland
Quakers (Crime, Community and Justice sub-committee)
Scottish Association of Social Work
Scottish Youth Parliament
Robert Seaton
Alec Spencer
James Watson
Proposed Government Bills

10:01

The Convener: I extend a very warm welcome to the Scottish Parliament to Brian Byrne and Joan Hewton, who are both involved in the Scottish Assessors Association. I am grateful to you for coming along and being prepared to take questions from the committee.

I have established that the panel do not want to make any opening statements, so we will move straight on to questions, which James Kelly will kick off.

James Kelly (Rutherglen) (Lab): Thank you for coming in this morning and being prepared to share your expertise with us. I have a couple of questions about the annual canvass. First, I want to be clear on what the timetable is for the next annual canvass. When does it start and finish? How will it impact on the 2014 referendum?

Brian Byrne (Scottish Assessors Association): We do not know what the timetable is. The start of the canvass could be any time between October and December or even into January. That depends on individual registration, which is coming in in 2014. The canvass will almost certainly be delayed, but until when is unclear.

James Kelly: Am I right in saying that there is usually an annual canvass? I want that to be clear.

Brian Byrne: There is usually an annual canvass that would probably start in September and finish by 1 December.

James Kelly: That would be the usual process. However, what you are saying is that, because of the referendum in 2014—

Brian Byrne: No. It is not because of the referendum; it is because of the individual electoral registration process.

The Convener: Perhaps you could explain a bit more about what that is.

Brian Byrne: The Electoral Registration and Administration Bill, which deals with individual electoral registration, is going through the United Kingdom Parliament. The idea is that each person will be responsible for registering themselves, rather than using the current household system. As part of that process, a data-matching exercise will be carried out, which will possibly take place from July 2014. In order for that data matching to be as good as possible, the canvass is likely to be delayed. The draft legislation suggests that it will take place on 1 December, although various suggestions are going around about bringing that date back slightly.
James Kelly: The normal process is for an annual canvass starting in September, but legislation going through the UK Parliament will involve a new data-matching process and individual electoral registration officers are awaiting the impact of that. It is therefore not clear when the annual canvass start date might be. Is that right?

Brian Byrne: The start date is not clear yet, but it should be clear by March.

James Kelly: By March. Am I right in saying that the canvass usually takes three months?

Brian Byrne: Yes.

Joan Hewton (Scottish Assessors Association): Yes. It varies across Scotland depending on the geographical layout of any particular area. Some people start particularly early because they are in a rural area and they have further to go to carry out their canvass. However, it is generally the case that the tighter the area, the shorter the period in which we carry out a canvass. Some people will start at the beginning of August and others will start nearer the beginning of September—generally it is sometime between August and September. The canvass must be concluded and the register printed by 1 December. Every canvass will conclude a week or a fortnight before 1 December.

James Kelly: If the commencement of a canvass was delayed in an area until 1 December, what impact would that have on the electoral arrangements for a referendum poll in autumn 2014, particularly bearing in mind new arrangements for a referendum poll in autumn 2014, that would become a third step in the procedures and how they work in tandem. One consideration is to use the canvass to send out forms to all households to collect information about young persons, on the basis that the canvass form is already in the envelope. However, you are trying to tackle only 1 per cent of the population, so maybe only 1 per cent of the households are likely to give a return on that. We need to weigh that up and we will not really be able to estimate costs until we know the final details. That would be during the canvass, which will probably happen in late 2013 or early 2014.

After that, we would probably try to target schools to find out that information because 14 and 15-year-olds have to be in education. One key way of getting the information would be to approach schools with a view to trying to get the school pupils to register, probably at the schools, although they would be registered at their home address. The easiest way to get them is through the education authorities.

If individual electoral registration comes in on 1 July 2014, that would become a third step in the process. We have discussed that with the Scottish Government, which wants to avoid those young people having to go through the matching exercise that the rest of the country will have to go through.

There will be different ways to manage it. The individual electoral registration could be delayed to allow the referendum to take place. What the UK Government might allow us to do as regards delaying the onset of the IER all depends on what date is set for the referendum. The costs will vary depending on what we can do and how much flexibility we have.

The Convener: A number of people have indicated that they want to ask questions. I will just make sure that they are supplementary. Rob, is your question a supplementary to what has just been discussed or do you want to come back in later?
Rob Gibson (Caithness, Sutherland and Ross) (SNP): I think that it is a supplementary question in the sense that it is about the accuracy of what is captured at the present time.

The Convener: Okay, on you go.

Rob Gibson: The register is created and then updated every month or so. How accurate is the register on the current electorate?

Brian Byrne: Overall, population estimates are reasonably reliable but not perfect, and the overall electorate is something like 93 per cent of the population. However, there will be duplicates and people will be missing—it is swings and roundabouts. We feel that the percentage of completeness in the electoral register is in the 90s.

Accuracy is a slightly different question. If someone moves, it can take time to catch up with that move, so they might still be on the register but not in the right place. That is partly to do with the fact that registration is annual. People can move within the year and part of the purpose of the canvass is to catch up with them.

From Electoral Commission research, therefore, we know that the register loses about 1 per cent accuracy throughout the year, and it catches up again at the canvass.

Rob Gibson: From what you know of the canvass procedures and so on, do you expect to be able to capture a percentage in the high to mid-90s of the 16 and 17-year-olds who can vote?

Brian Byrne: Young people aged around 18, 19 and 20 are very mobile; they are not so mobile at 15 and 16. We know where they are because we can use school records; we have good access to school records in Scotland. Such access can be a problem in some parts of England because of the dual-tier councils, but we have no issues with that in Scotland. We are therefore pretty confident that we will have good information about where the 16-year-olds are. Knowing where those people are is one reason why, as Joan Hewton mentioned, there might be an option to target the voting forms, rather than using blanket coverage and reaching every house in order to get to something like 45,000 people out of 4 million electors.

Bill Kidd (Glasgow Anniesland) (SNP): Thank you for the information that you have given so far.

Earlier, Brian Byrne mentioned that registration would be done in a different format. Unless I picked you up wrong, you said that it would not be done in households in the same way as it is at the moment. Is that right?

Brian Byrne: That is right. The idea is that, by 2015, each individual will have been verified against the Department for Work and Pensions database. As the first stage of that, we will match the register that will be current in July 2014 against the DWP database. Anyone who matches on that will be confirmed as registered. For anyone who does not match, we will have to go through applications and invitations to get more information and confirm them. We will keep going with that until every individual is matched or registered.

The process is different from the one that we are using at the moment. We will send out a form and anyone who lives in the household will be able to return it with the details of the household. If anyone new is on the form, which is not an application to register but an information form, we will have to send out an application form.

Bill Kidd: Does that mean that the burden will be more on the individual to ensure that they are registered, like they have to do in America, than it is at present?

Brian Byrne: There are suggestions that there should be civil penalties for not responding, so registration will not be entirely voluntary. However, there will be more of a requirement on the individual to take part.

Bill Kidd: Will you look to councils or local authorities to ensure that the 14 and 15-year-old attainers who are to be ascertained for registration are registered through the schools?

Brian Byrne: At the moment, we get information on 16-year-olds from schools. Different EROs use that information in different ways. Some EROs use it to contact people directly and basically ask, “Please can you confirm that these are the names of the people in the house?” If the information is confirmed, that is fine; if it is not confirmed, the ERO will need to use some other process to follow it up. Other EROs will do things the other way round, but they will still use the school records to check whether someone might be missing from a form and then follow that up. Access to school records is very good, and we expect to be able to use those in a similar way for the 14 and 15-year-olds.

10:15

Joan Hewton: The key point is that we cannot put people on the register unless they apply to be included on the register, so we must have a returned form. At present, during the canvass a whole household can register on a canvass form, whereas outwith the canvass an individual form needs to be submitted. When we come to the new system, everyone will need an individual form.

The Convener: Can I just tease that out a bit? I thought that EROs had a general power to maintain the register and that they could use that power to approach people to get the information
required. Therefore, all the traffic need not be one way, with only the individual registering. I thought that you were required to maintain the register.

Brian Byrne: Before about 2001, we had a duty to put people on the register if we felt that they qualified, were eligible and were resident. In 2001, that changed to become an application process. During the year, if you move into an area, you need to submit an application form to be included on the register. We use council tax records and whatever to identify people who have moved into the area and then send them an application form, but they still need to fill it in. If the canvass results in anyone new being included on the form, that is deemed to be an application to be included on the register. The system is different from the way it was before 2001, as everything now requires an application.

Richard Baker: I want to be clear on that point. I remember that, in 1997 for example, there were big campaigns to get whole lists of university students to be submitted for registration en masse without any need for individual application. Is it no longer possible to have that sort of block registration?

Brian Byrne: In some circumstances, we can still use university lists. We can treat a hall of residence as a household and put people from it on the register at the canvass. However, when individual registration comes in, that will not be possible, so the university list will just be information for us.

Richard Baker: So that is possible now, but it will not be possible for the referendum.

Brian Byrne: It is possible now in certain circumstances.

Richard Baker: Likewise, could schools not just give you a list so that you can include its pupils on the register?

Brian Byrne: Only boarding schools can do that.

Richard Baker: We will not go into the class divide that exists there.

My final question is whether parents will continue to be able to put children on the register. Will that still be the case for 14 and 15-year-olds under the new system, or will each 14 or 15-year-old need to apply individually?

Brian Byrne: I understand that the idea is that there will be a form similar to the canvass form that the parents—or anyone in the household—could fill in to say that certain people will be 16.

Richard Baker: So parents will still be able to do that.

Brian Byrne: Yes.

Annabel Goldie (West Scotland) (Con): I will turn the issue round the other way, because I think that I am not alone in being in a slight fog about the timescales involved. We do not know the date of the referendum, but let us assume a notional date of 31 October 2014. In an ideal world—for the moment, let us just park the Electoral Registration and Administration Bill, which we will come back to—how soon before that would you want a finalised register?

Brian Byrne: The final register for the referendum probably needs to be available 11 days before the referendum.

Annabel Goldie: How many?

Brian Byrne: Eleven days would be normal for an election. A longer period would be preferable, because the timescale is quite tight.

Annabel Goldie: To get to that point, how soon before then would you seek information from voters?

Brian Byrne: Ideally, we will seek the information during the canvass at the end of 2013, because 90 per cent of people on the register come on to the register at canvass.

Annabel Goldie: That brings us back to James Kelly’s original question. At the end of 2013, some procedure will take place to canvass who should be on the register.

Brian Byrne: Yes. Assuming that that happens after 1 December, it will be possible for anyone who is already 16 to be added to the register as an attainer. Anyone who is only 15 at that point would have to go on to a different system—a young persons register. The difference with that is that, because it is not published on the normal publication date, we will have a little longer to catch up on anyone who is missing.

Annabel Goldie: Okay.

I want to establish a rough shape for the process. There will be a canvass process towards the end of 2013 to prepare something, which will become the genesis of the voting basis for a notional referendum on 31 October 2014.

Brian Byrne: Yes.

Annabel Goldie: On top of that, we need to overlay the Electoral Registration and Administration Bill. Do we know when that will come into effect?

Brian Byrne: The current proposal is that it will come into effect on 1 July. I understand that discussions are taking place in the background about whether that should be delayed in Scotland, but I do not know whether there will be a delay.
Annabel Goldie: So we do not have a date set for implementation, other than that it will probably happen in July 2014.

Brian Byrne: Yes.

Annabel Goldie: If the committee agrees, I think that it might be helpful if the convener wrote to the UK Government to seek clarification on that.

The Convener: I have scribbled down a note that we need a briefing of some kind, whether from the UK Government or the Scottish Government. There is a job to be done in bringing together information on where the UK is, with information on where the EROs in Scotland are. It would be extremely helpful to get a general briefing from the Scottish Government that pulled those two bits of information together.

Annabel Goldie: May I ask a final question, convener?

The Convener: Sure. On you go.

Annabel Goldie: If we overlay the Electoral Registration and Administration Bill and anticipate it coming into effect in July 2014, that seems to me to be a colossal amount of work to be accomplished in Scotland.

Brian Byrne: It is a colossal amount of work. Also, the fact that two totally separate things are to happen at the same time—individual electoral registration and the creation of a register for the referendum, which will involve two different sets of rules—also has the potential to confuse some of the electors.

Annabel Goldie: It might be unfair to ask you this—if you do not feel able to answer, I will quite understand—but if we take it that a major piece of legislation that will affect the franchise will be implemented in July 2014 and that a very important constitutional referendum will take place somewhere around the end of October or the beginning of November 2014, can that amount of additional work be accomplished?

Brian Byrne: It would be preferable, from our point of view, if the implementation of individual electoral registration were delayed in Scotland until after the referendum, but that might depend on a relatively early date for the referendum.

Joan Hewton: It could also be that, if IER were brought in earlier in Scotland, that would provide an opportunity to send out another batch of forms, with a view to increasing the size of the electorate at that point in time.

The difficulty will be created by having a gap in the middle of the IER process. At present, under the draft bill, IER will start on 1 July and be completed by 1 December. The difficulty will be created by stopping in the middle of the process for six weeks to prepare for the referendum.

Annabel Goldie: I presume that it would be very challenging to get that brought in sooner, because it is a UK responsibility.

Brian Byrne: The problem with bringing it in sooner is the fact that the European elections are to be held in June 2014, so there is only a very small window to bring it in sooner.

Joan Hewton: There is talk of bringing forward the European elections to the end of May. If that happens, it will provide a bit of scope for the process to be brought in a bit sooner.

The Convener: A suggestion has been made that we could have an informal briefing from Government officials on 28 February. That might give us a chance to alert them to that issue in particular, so that they can involve themselves in a discussion with the UK Government before they come to talk to us about how the process can best be managed. I think that that would probably be a good way to proceed.

Annabelle Ewing (Mid Scotland and Fife) (SNP): My question goes back to the issue of the attainers, but it is also relevant to the discussion that we have just had about timing and so on.

Earlier, you said that the suggested timetable would see the canvass taking place towards the end of 2013 or early 2014, and that you might find it necessary to go to schools to see what further work could be done after that. To what extent would it be helpful if there was an information campaign with the schools simply on the neutral issue of registration in advance of that, in order to ensure that those who will be eligible to vote in the referendum are aware of what they will be required to do? I would hope that that would save some time at your end and would allow you to turn your attention to some of the other matters that are coming up.

Joan Hewton: Yes, you are right. We will start to contact education authorities and get names and addresses. To get on the electoral register, a person’s name, address, date of birth and nationality are required. I am not sure that every school will have that information. If we get information from the schools, that allows us to prepopulate forms. If we send out a form that is prepopulated with the name, we are more likely to get it back than if we send out a blank form. It is a good idea to tackle schools first and then do the canvass with prepopulated forms, where possible.

At that point, in relation to non-returns, instead of chasing households that are extremely unlikely to have young people in them, we will take a more individualised approach through schools and so on. There are various steps that we can take.

Brian Byrne: Prepopulation of forms also leads to electronic returns. People can check the form
online and say whether it is correct. That gets rid of a lot of paperwork.

**Annabelle Ewing:** That would perhaps be something that would be appealing to younger people, who, I think, now communicate solely on that basis.

**Patrick Harvie (Glasgow) (Green):** Is there any scope for the Electoral Commission, which has a responsibility to promote participation, to coordinate with the registration process in a way that would benefit efforts to promote awareness in schools—and in colleges and universities, given that people who are 16, 17, 18 and 19 will be in a range of institutions? Have you talked to the Electoral Commission about that?

**Brian Byrne:** Yes, the Electoral Commission quite regularly runs campaigns, and we try to coordinate local campaigns with what it is doing. It is important that there is a major campaign to promote awareness in the institutions that you mention, and that that campaign ties in with when and how we issue forms.

**Patrick Harvie:** One of the areas in which there could be complexity is universities. Richard Baker mentioned the drives to get university students to register. Members will all recognise that as an issue, based on our experience of trying to get new students on to the register for the first time. Now, however, we are talking about a situation in which a great many of them will already have been registered at their parents’ home and will have to decide whether to reregister at their new address in their university town or to stay registered at their parents’ address. Is that an additional area of complexity? Is there a danger that people will get lost between the cracks?

**Brian Byrne:** Electoral Commission research shows that the group that is hardest to get on the register is that of young, mobile people, which is almost the very definition of a student. If they move after we have got them on the register, we have to go through the whole process again.

In relation to getting young people on the register for the referendum, because of the individual registration method that is coming in, we will definitely have to go through the whole process again. We have asked the Cabinet Office whether, if we get someone on the young persons register, based on robust information from education departments, that will help with individual registration, rather than relying on the DWP database. I understand that the Cabinet Office is considering the issue. That might help to bridge the gap.

**Patrick Harvie:** So that information would come from local authority education departments. Would it also come from colleges and universities?

10:30

**Brian Byrne:** Electoral registration officers have wide powers to ask for information from almost everyone, but especially so with regard to local councils, which would therefore cover education departments. As for universities, although they are usually very helpful in providing lists of the students for whom they provide accommodation, it is more difficult to get information about students in private accommodation.

**Patrick Harvie:** Of which there are a great many.

**Brian Byrne:** Indeed, especially slightly older ones.

**The Convener:** I do not want to lose what we have agreed, so in a moment I will encapsulate for the clerks where we are with regard to the canvass procedures and the register. First of all, however, I draw colleagues’ attention to page 7 of annex A to the cabinet secretary’s letter to me of 14 December, which touches on the UK individual registration process. It goes on to say:

“We are currently considering whether these arrangements should apply to under-16s registering to vote in the referendum as well, and ... how best to approach this. The UK and Scottish Governments will work together to co-ordinate ... interaction”.

It would be good if we could find out what discussions are taking place between the Scottish and UK Governments, because that would help not just the committee in its consideration of the bill but our ERO colleagues. I think that when they come to brief us informally on 28 February, officials should also come armed to discuss that issue a bit more. I hope that that captures where we have reached.

I am not sure whether we have finished that line of questioning, but I believe that Stuart McMillan and Linda Fabiani have supplementarys.

**Stuart McMillan (West Scotland) (SNP):** I will follow on from my colleague Annabelle Ewing’s questions. Although the referendum is the most important vote that will have been held in Scotland in the past 300 years, the fact is that every election is important. Given that—and given the bill that is going through the UK Parliament—I point out that in recent years it has been brought to my attention that, despite filling out and sending off their voter registration forms, some people have found that, when they go to vote, their names are not on the register. I do not know whether the witnesses have given any thought to that, certainly with regard to the new individual registration process that is being introduced, but is consideration being given to a process whereby the valuation board notifies individuals that they are registered?
Brian Byrne: Under the individual registration process, the ERO writes to a person to tell them either that they are on the register or that they are not and should fill in the enclosed form.

Stuart McMillan: Could such notification be made by text or email rather than by letter?

Brian Byrne: We have suggested the use of electronic methods, but that has proven to be a slight struggle.

Stuart McMillan: As Annabelle Ewing pointed out, the use of modern technology is increasing among 15, 16 and 17-year-olds—although I have to say that text messages are probably not so modern any more. Could that technology be used to notify not only younger people but older people who might not have registered before or who, because of the new system, might be confused about whether or not they are on the register?

Brian Byrne: With the individual registration process, there will be a digital Government service that people can use to register. They will be able to go online and give details such as their date of birth, national insurance number and so on; that information will go to the ERO and the Department for Work and Pensions, will be matched—or, indeed, not matched—and will then be sent back to the ERO. If people do that online, they should—I hope—get an electronic response.

Stuart McMillan: What about those people who have absolutely no access to a computer and no intention of accessing one?

Brian Byrne: At the moment, EROs use as many communication methods as possible. In my area, the electronic response rate—through phone, text, emails or the internet—is about 40 per cent and is growing. Different EROs are at different stages—some are ahead of us; others are behind—but the rate is growing. Where we use electronic methods of communication, people seem to respond well and like it, but there are always going to be others who rely on the post.

Stuart McMillan: The point that I am trying to get across is that when it comes to the referendum, I would hate for somebody to say that they filled out the form and sent it away, but found out when they went to vote that they could not because their name was not on the register and they had not been informed that, for example, their application form got lost.

Brian Byrne: We are considering that for younger voters. Before an election, people get a polling card that indicates that they are on the register. If they were used to getting a polling card but do not get one, they should contact the ERO. However, we recognise that young voters are not used to getting polling cards, so we consider that it might be better to write to them to say that they are on the register, which I think is the point that you are trying to make. We have thought about that possibility.

Stuart McMillan: From memory, I do not think that someone needs a polling card to go and vote.

Brian Byrne: No, but a polling card indicates that the election is happening, that the person is on the register and that there are different ways of voting—those are the three purposes of the polling card.

Stuart McMillan: Right.

Linda Fabiani (East Kilbride) (SNP): I have just a quick question. You said that you have had discussions with the Cabinet Office. Is there cognisance of the importance of the referendum, given that the Cabinet Office is dealing with the interface between the legislation down there and what we are achieving here?

Brian Byrne: Yes. The Cabinet Office is very aware of that. We find the Cabinet Office responsive and believe that it understands the situation.

The Convener: I have a general question about information technology issues. Obviously, you are very dependent on IT for the job that you undertake in producing the register. Are there any additional IT issues in dealing with young voters? If so, how will those be addressed?

Brian Byrne: We are very dependent on IT. I understand that the software companies involved have been contacted by Scottish Government officials about the likely process. They therefore know what will be involved and they have responded. We have not seen any results, but we understand that that is happening.

The Convener: From your perspective, what are the issues that we need to understand more clearly?

Brian Byrne: We have to have a database of names of people who are not on the register but who will go on to a combined normal register and young persons register in time for the referendum. There will be one database, but it is in two streams, which will have to be combined at some stage.

The Convener: Okay. That will require programmers who have the skills to merge all that.

Brian Byrne: Yes.

The Convener: In itself, that should not be a difficulty, provided there is enough time to do it.

Brian Byrne: They are quite specialist companies, and they need time as well.

The Convener: Okay. Do you want to say more about how much time might be needed? That
might not be clear yet because we are still not clear about what is happening with the UK process.

**Brian Byrne:** The general rule, going back to what the Gould report said, is that six months is enough time.

**The Convener:** That is a good rule.

Do colleagues have questions that go beyond what we have been talking about? Annabel Goldie has a question, then we will go to more general questions.

**Annabel Goldie:** It is on a completely different issue and relates specifically to 16 and 17-year-olds. Normally when you do your canvass and find somebody who is going to be 18 in the forthcoming year, a date of birth goes in. However, there are clearly areas of sensitivity if you do that with people who may be 15 or 16 at that point. Because the information is for one fixed-date referendum, is it possible to include those young people without reference to their date of birth and just to note that they will be 16?

**Brian Byrne:** I think that we suggested that in our response and I think that people have processes in mind for that. When we send out canvass forms and we put people on as young attainers, the advice that we have had is that we should not put on the date of birth; instead, we put “Date of birth known.” That means that, in case the form goes astray, there is only a name. That would probably have to be the case with the form for the young persons register. However, the form itself tells you that the young person is under 16.

**Annabel Goldie:** I have a second point on the question of disclosing the addresses of the young attainers. Obviously, there are young people who are subject to non-disclosure orders. For example, there may be young people in care who will be eligible to vote but whose whereabouts are not known to one or both parents, for obvious reasons. Again, is it possible for arrangements to be made such that in particular circumstances their address need not be disclosed?

**Brian Byrne:** I understand that the draft legislation covers that. There is a process in normal registration for a declaration of connection with a property, which is normally for homeless people. If it is extended to young people in cases where there is a wish for the address not to be known, that is quite possible.

**Linda Fabiani:** We are aware that this process has already been gone through in other places such as Jersey and the Isle of Man. Has there been a learning process from their experiences?

**Brian Byrne:** To an extent, the process has already happened in Scotland, with the health board elections, as you are aware. This is slightly different, however, because in the health board elections, people were already 16 at the time of registration. The proposals before us go a bit further, to capture people who are 15 at the time of registration. There are childcare issues with that. That is the only major difference, however. Capturing 15-year-olds and 16-year-olds is pretty similar, except for the fact that, technically, 16-year-olds are adults, unlike 15-year-olds.

**Linda Fabiani:** You seem quite relaxed about the whole process. Would I be right in saying that?

**Brian Byrne:** I try to be as relaxed as possible.

**Joan Hewton:** EROs from throughout Scotland meet regularly. We invite advisers from the Electoral Commission, the Cabinet Office, the Scottish Government and other organisations to those meetings, and they all attend. We have good dialogue and communication between all parties. We feel that we have talked it round, and that we are as ready as we can be to take on the legislation when it is enacted.

**Brian Byrne:** All 15 EROs in Scotland meet regularly. We use the Scottish Assessors Association for that. Most of them are also assessors, but the ones who are not assessors are also involved and play a full part.

**The Convener:** Have you had contact with the jurisdictions that Linda Fabiani mentioned?

**Brian Byrne:** We have not had contact with Jersey or the Isle of Man.

**Linda Fabiani:** We intend to take evidence from them further down the line. That will perhaps be helpful to you, if there is anything that you wish us to raise with them.

**Brian Byrne:** Yes, it would be interesting to see that.

**Linda Fabiani:** I also wished to ask about publication of the register in relation to campaigning and so on, as per normal elections. I wondered if we could tease out that issue as well. In relation to Annabel Goldie’s important point about confidentiality, do you see any differences in how those who are involved in campaigning will be able to access and use registers?

**Brian Byrne:** Looking at the draft legislation, it seems that the intention is to restrict access to the register as much as possible, until just before the referendum. Anybody who is on the register for the referendum will, by definition, be 16 on the day of the referendum. The closer we get, the more 16-year-olds, rather than 15-year-olds, will be on the register.

**Stuart McMillan:** My question follows on from the earlier discussion regarding the information and assistance that EROs will require. We have touched on some aspects, such as data records,
IT experts and software, but are there any other things or people that you require in order to capture as many people on the register as possible, particularly the 15, 16 and 17-year-olds, who will be voting for the first time?

Brian Byrne: If there is any doubt about capturing information on people under 16, we would be happy if that doubt was removed, so that we have the clear right to capture that information and so that education departments, for instance, could not say that there are data protection issues.

Joan Hewton: The clear way in which to get people on the register is a good publicity campaign that is properly targeted at the right time and at the right people. There is no point in trying to attract 16-year-olds on to the register by advertising at 1 o’clock on the day. It has to be timeous—it has to be at the right time; we should not just keep writing to them.

If people do not want to register, we cannot force them to. We need a clear explanation that, even if someone is not thinking of voting now, they might decide to do so later, but they will not be able to if they are not on the register. We need to keep putting out that message. I think that the Electoral Commission has been given the task of the main publicity in the run-up to the referendum, but the political parties will publicise it as well. The more that do it, the better.

10:45

Stuart McMillan: The political parties use various media platforms, and not just newspapers and television.

On that issue, I am aware that 16-year-olds in Norway can vote—that was certainly the case in the 2011 local authority elections. That was part of an effort to get younger people involved. Linda Fabiani asked about Jersey and the Isle of Man, and you said that you had not contacted them. Have you contacted anyone else to find out what they have done and how they have done it? I imagine that the answer will be no, given your answer to Linda.

Brian Byrne: We have not yet done that. I know that other countries such as Austria have introduced voting for young persons. We are aware of it, but we have not talked to anyone about the process.

Stuart McMillan: Will you do so?

Brian Byrne: Perhaps we will, now that you have brought it to mind.

Annabel Goldie: My question is a supplementary to the line that Linda Fabiani investigated on the register of young voters. According to section 8 of the draft referendum franchise bill, the register will not be published but “may be disclosed to a person so far as necessary for the purpose of the carrying out by that person of any function in connection with registration in the register.” Is that meant to cover individual political parties or people who are registered with the Electoral Commission?

Brian Byrne: I think that it is mainly to cover the returning officer, to allow them to organise the election. The campaign groups will have access to the register at a certain point and I imagine that political parties will, too.

Annabel Goldie: There is the important issue of political parties or other individuals needing to check the permissibility of donations. I do not see how they can do that unless they can see the register.

Brian Byrne: I understand that that question has been raised. A balance probably needs to be struck between the child protection issue and clarity on who is registered. We will just have to follow that. It is not something that we can decide.

The Convener: The Electoral Commission has raised that issue with the Government. Obviously, that provision is in the draft bill, and we will see the Government’s response in the bill that comes before us.

Brian Byrne: The point that we have made is that the register of young voters should be treated differently as regards open sale or sale to credit reference agencies. It should not be needed for that; at the moment, it is only for the purpose of the referendum. It should be restricted to the political process.

Annabelle Ewing: I return to the issue that I raised initially and which Joan Hewton referred to when she said that we need a good publicity campaign. A good route for discussing the issues, and particularly the registration process, would be the modern studies and citizenship classes that every secondary school has. That would be in keeping with the general duty of information that the process entails.

Brian Byrne: Different EROs have different approaches. Some get involved in modern studies classes. I think that Joan Hewton does that in one council. Renfrew is particularly to the fore in that respect. We are all at different places with that but, for this referendum, we will have to be more up to speed with it.

Joan Hewton: It would be great to see the issue as a specific item in the curriculum.

The Convener: We are more capable of achieving uniformity of practice and good practice sharing now, through the medium of the Electoral
Management Board for Scotland. Is it your hope that, as a result of the discussion that goes on through that medium and your general discussions as assessors, you can ensure that good practice is much more widespread throughout the country?

Brian Byrne indicated agreement.

The Convener: For the benefit of the folk behind, that was a yes.

Brian Byrne: Sorry—it was a yes.

The Convener: As there are no further questions, I thank Joan Hewton and Brian Byrne for attending the Scottish Parliament today. I am grateful to you for giving us your time.
Scottish Parliament

Referendum (Scotland) Bill Committee

Thursday 7 February 2013

[The Convener opened the meeting at 10:00]

Proposed Referendum Franchise Bill

The Convener (Bruce Crawford): Good morning. Welcome to the third meeting in 2013 of the Referendum (Scotland) Bill Committee. This morning, we will take evidence on the proposed referendum franchise bill, hearing first from Michael de la Haye, the clerk of the States Assembly in Jersey.

I believe you are also known as the greffier of the States Assembly, Michael. That is a great name. I think that we will start calling the Scottish Parliament clerks greffiers as well. I like it.

I am grateful to you for agreeing to speak to us this morning. I hope that it will help us to understand the challenges that we face as we consider legislation to enable 16 and 17-year-olds to vote in the referendum in the autumn of 2014.

I will start off with a general question. What is your role in relation to electoral administration? Can you give us a brief overview of the process of the lowering of the voting age?

Michael de la Haye (States of Jersey): I should say that I do not have a direct role in the electoral registration process. However, as clerk of the Assembly, I have a central role in relation to the various authorities and how the franchise works. I work with the political committee that is responsible for the public elections law.

We lowered our voting age to 16 in 2007. It was not done as a result of a particular initiative of the Government of Jersey or anything of that sort. An individual private member of our Assembly—she happened at the time to be the Assistant Minister for Education, Sport and Culture, but she was acting more in a private capacity—brought the proposal to the Assembly for debate and members took a political stance on it.

As you know, we have a system of independent members in Jersey—we are not based on political parties—and the members of the Assembly take their own political stances on issues. The nearest parallel that I can think of to help you understand that process is the recent vote on gay marriage in the United Kingdom House of Commons, in which individual MPs took their own political stance on the issue. That was the case with regard to the lowering of the voting age in Jersey, for which there was a fairly narrow majority. The change was in place for the 2008 elections.

The Convener: What were the main process challenges that you faced once the decision was made?

Michael de la Haye: I do not think that anyone encountered any major challenges. Voting registration in Jersey is still done largely on a household basis, with a form being sent annually to each household—I believe that that is the case in the United Kingdom, too, although I understand that the system might change soon.

Although it is the duty of each eligible voter in the household to fill in the form and sign it, the form comes pre-completed with the names that are already known to be on the register. It is the duty of the people in the household to check that they are still entitled to vote—obviously, if they are on it, they are likely still to be able to register. If there are people in the household who have become eligible to vote or who have left the household, the people in the household make those changes to the form and send it back.

In practice, many 16 and 17-year-olds live at home with their parents, so one assumes that the responsible adult, often a parent, will take the initiative to put little Johnny or Sarah on the form.

If someone has missed the annual trawl through the household lists, they can, of their own volition, seek to register separately at any time by applying to the relevant parish—the electoral register is maintained by our 12 administrative parishes, each of which covers its own area. Registration closes around three to four weeks before the election or referendum—there is no annual cut-off date. Our referendum law gives a 21-day period.

The Convener: That is a useful overview.

Annabel Goldie (West Scotland) (Con): When in 2007 was the law changed?

Michael de la Haye: You might know that the process of the passing of primary legislation in Jersey involves a formal sanction by Her Majesty in council. The in-principle decision on the proposition that was brought by the member whom I mentioned was made in July 2007, and the legislation was adopted by our Assembly in September. The change to the law was a simple, one-line change that involved simply changing “18” to “16”. After thePrivy Council process, the change came into force on 1 April 2008. Our elections were held in October that year, so there was a six-month gap between the change and the elections.

Annabel Goldie: I know that the electorate in Jersey is around 82,000—I believe that that was
the figure in 2011. You had six months to ascertain who would be eligible to vote in the 2008 election. You have mentioned that you work on the basis of household registration.

**Michael de la Haye:** That is correct. Fortunately, the April date for the change coming into force was before that year’s annual trawl, so the forms that went out in 2008 encouraged people to include anyone in their household who met the new registration criteria.

**Annabel Goldie:** If you had been on an individual voter registration system, would that have increased the administrative work?

**Michael de la Haye:** It is a slightly hypothetical question, as we did not have to think about that, but I suppose that the answer could be that it might have done. I read the Official Report of the evidence that you heard last week about the move to individual registration. It seems that your electoral authorities have quite wide-ranging statutory powers to get into schools and so on. I was surprised that they would be able to get access to school roles, university lists and so on. In Jersey, we would probably have to change our law in order to give us that power.

There is a sort of hybrid situation. I am not sure of the position in the UK, but, under our law, it is not the duty of the head of the household to complete the form. The form goes to a household address and it is the duty of each individual eligible voter to fill that in. Obviously, that requires some co-operation between the people in the household, and I am sure that there could be occasions on which a head of the household might not show the form to someone. Of course, a household might not be a traditional family; it might just be some people who live together in a property and who might not have a particular reason to pass the form around. That could be a failing in our system, I suppose.

**Annabel Goldie:** So, between April 2008 and that year’s election, the electoral registration office conducted a basic trawl of households—canvasses of people who could vote—and then tried to identify the attainers—the 16 and 17-year-olds—on the back of that. Is that correct?

**Michael de la Haye:** Yes. What we do not have is any sort of reconciliation process with regard to who we think we should have and who we have got. There is no way of verifying that.

From what I read in the Official Report of your previous meeting, if you have a list of people at a particular university or school, someone will be able to say, “We should have them on the register; do we have them?” We do not have that sort of reconciliation process. We can only do all that we can to get as many people as we can. We estimated that, in the 2011 elections, we registered about 80 per cent of eligible people. I think that the UK national average is around 82 per cent. The assessors who spoke to you last week seemed to say that Scotland does slightly better than that.

**Rob Gibson (Caithness, Sutherland and Ross) (SNP):** I note that about 2,000 16 and 17-year-olds were added to the register and that, as a percentage of the total, that is fairly small. Was there a difficulty in doing that? You have referred to the 12 parishes that deal with the issue. I guess that that work would be fairly small in relation to their overall job of ensuring that the register is up to date.

**Michael de la Haye:** There is political pressure in Jersey for the parishes to do more. The largest parish, St Helier, where I am talking to you from and which is the capital of Jersey, has about a third of the population. There is a lot of proactive work here involving electoral officers going out and knocking on doors to say, “We don’t seem to have a form from you.” However, there is a feeling that some smaller parishes are perhaps not doing enough. Perhaps in those parishes the feeling is that it is people’s duty to register, that they should come and do it, and that we should not have to knock on doors. You might be right that more could be done, but our perception is that the registration level among the lower age group is probably as good as the average level for the overall voting population. I do not think that it is particularly better or worse.

**Rob Gibson:** But, overall, the people who do the registration did not have a huge extra amount of work.

**Michael de la Haye:** No, I do not think so. As I said, because of the way that the forms went out, households that had been Mr and Mrs Smith simply had to add a 16 or 17-year-old, in the same way as they would have had to do in the past when one of their children became 18.

**James Kelly (Rutherglen) (Lab):** You have outlined that the data capture is pretty much a manual exercise, in that you do the mailing and you have some follow-up with officers canvassing households and reminding them to register. Do you have any feeling for what the percentage success rate was in the attempt to get 16 and 17-year-olds on to the register?

**Michael de la Haye:** As I alluded to in a previous answer, the level reached about the same as the general level across the population. In 2011, we had a second set of elections with voting at 16. For that, we did a big push on registration and managed to add 2,000 or 3,000 people to the register across the island. Our perception is that the percentage of 16 and 17-year-olds who are registered is probably about the
same as the percentage for the population as a whole. It is not greater or less than the average across the population.

James Kelly: Are any additional data capture measures under consideration to try to improve your success rate, not just with 16 and 17-year-olds but across the population? The aim would be not only to get more people registered but to address the issue that you highlighted earlier about the lack of reconciliation between the register and the potential number of people who have not signed up.

Michael de la Haye: There is something fairly major on the horizon, because the Government of Jersey is about to set up a population database. In effect, that is for monitoring immigration, because the size of the population is a big issue in the island as a result of the pressure on space and accommodation. The committee of our States Assembly that deals with electoral matters has recently had discussions with the Government about whether, in due course, there might be options for data sharing to allow access to the database, as that might be an accurate way of working if we can pin down the residency and other eligibility criteria for voting.

I know that one of your possible questions is about data protection. The data protection commissioner in Jersey has concerns about allowing the population database to be used for a public register that, at election time, will be made available to candidates and others and will become a public document. Those concerns would have to be addressed in any data sharing agreement.

The Convener: That fits closely with some of the stuff that Patrick Harvie wants to ask about.

Michael de la Haye: Largely, that work falls to the Privileges and Procedures Committee. In effect, it does both jobs: it raises awareness of both registration and voting. With hindsight, it is fair to say that in 2008 we perhaps did not do enough to raise awareness. The change was fairly recent, and there was perhaps a feeling that we went into the elections having just changed the voting age and without quite knowing whether young people of that age would be interested in registering and voting.

I do not think that enough was done on that, so more effort was made for the 2011 elections. There was a bigger voter registration and voting campaign. In effect, it was a two-stage campaign. Initially, in the lead-up to the cut-off date for registration, the campaign reminded people, for example, that there were only five days left to register and that they should get their form in. The campaign used social media sites, a website and media advertising.

After the cut-off date for registration, the campaign was about encouraging people, now that they had registered, to go out and vote. As I imagine that there will be in Scotland, there was political and general pressure to ensure that efforts were made to reach 16 and 17-year-olds. Things such as Facebook and Twitter were used. Although those might appeal more widely, there was an expectation that they would appeal particularly to younger voters.

We commissioned a YouTube video by a character who had done some irreverent and humorous YouTube videos about Jersey in which he poked fun at politicians and at life in Jersey. We took a slight risk with that. Initially, we were not sure that politicians would be happy to sign him up for the voter campaign, but they were good sports about it. He did an irreverent and amusing but factually based YouTube video about getting out and registering and the point of voting. I can send members the link if you would like to see it on the big screen as some light relief.

Patrick Harvie: I suspect that we will all look it up when we get back to our offices. Maybe we will have to recruit Limmy for the campaign in Scotland.

I have a question about the level of success. A graph in our briefing shows a line that rises from a low of 33 per cent turnout among 16 to 34-year-olds to a 79 per cent turnout in the higher age group. That is not dissimilar to the situation here. Can you say what the turnout was among 16 and 17-year-olds, which is the group that the change refers to? Is there on-going work to try to increase turnout among that group for future elections?

Michael de la Haye: There is no empirical data on that, as we do not record voters’ ages. There would be issues of voter secrecy if we were to trawl through registers and identify who had voted.

All the evidence that we have is anecdotal, although it is fairly robust anecdotal data. Yesterday afternoon, in advance of this evidence
session, I spoke to one of the most senior returning officers, who has handled elections for many years and who is very experienced. Her view, which agrees with what was widely said in the island, is that unfortunately the turnout among that age group was very low. She said that she saw virtually no people who looked to be 16 or 17, although there were some who came with their parents. The general message is that, unfortunately, we did not reach that age group.

However, it would be wrong of me to say that the change has been a failure as a result. I have read the *Hansard* of the debate on the issue in 2007. Some people said that it was not necessarily quantity that mattered, that some people in the age group are politically engaged and that we should do all that we can to get as many people as possible in Jersey interested in politics. Even if only 10 per cent turned out—that was what the evidence showed and was the figure in the first Isle of Man election after the change there—that would be at least 10 per cent that we would not have had before.

The matter is for political judgment. I could find as many politicians in Jersey who would say that the move has been a failure as would say that it has been a success. Unfortunately, I cannot say that there was massive enthusiasm and a massive turnout, as that certainly was not the case.

It is probably true to say that young people generally—with notable exceptions—might find the political process difficult to engage with, particularly with our system of independent politicians. Even many adults struggle to know exactly what candidates stand for and what their policies are. Sometimes candidates are well known, and sometimes they are not. Judgments are made and existing politicians are judged on their records. It could be difficult for a 16 or 17-year-old to know why they would want to go out and vote for a candidate; they might think, “I don’t know who they are, most of them look a lot older than me and I don’t really understand what they’ll do for Jersey.”

The situation in Scotland is very different. I would dread to touch on Scottish politics but, looking in from outside, it is clear that you have a one-issue referendum and that the issue is clear. I assume that even young people would have views on that, so they would not have the difficulty that people have in Jersey in choosing three members to vote for from a long list of 50 and 60-year-olds whom they do not know and have never met, when they do not know what those people stand for.

**Patrick Harvie:** I think that we could all empathise with that from time to time.

**Stewart Maxwell (West Scotland) (SNP):** Good morning, Mr de la Haye. In response to Patrick Harvie’s questions, you explained some of the difficulties that you had in relation to young people. Have any practical difficulties arisen? For example, are 16 and 17-year-olds who go to polling stations ignorant of the process? Is there evidence that they have been put off by the process? Some who oppose the change argue that under-18s are immature, unaware and ignorant of the process and of what is going on, so the voting age should not be lowered.

**Michael de la Haye:** I am not aware of and have not been told of any practical difficulties. It is difficult to answer your question whether young people have been put off by the process. As I just said to Mr Harvie, the turnout has not been high, so one could argue that they have been put off by the process. Perhaps people have not voted because they find the process off-putting—I do not know; there is no evidence about whether that is the case or whether they do not vote because they are not interested. I think that the young people who have voted were not confused or put off by the process, because—by definition—they are politically alert and aware, so they would have no difficulty.

One strong argument that was made when the change was proposed—it is in the *Hansard* of the debate and in the proposition that the member involved made—was that one assumes that opponents of the proposal possibly assume that, at 18, people suddenly and magically become politically aware and become aware of the process, whereas there are probably just as many 16-year-olds who are aware of the process as there are 18-year-olds who are aware of it.

I do not think that 16 or 17-year-olds have been put off by the process, but they might not have wished to engage with it or might not have found it to be something that they are vaguely interested in or which is relevant to their lives.

**Stewart Maxwell:** I have a quick supplementary question. Was work done to assess the views of 16 and 17-year-olds on the proposition of lowering the voting age? Politicians and others had a debate, but they were clearly over 18.

**Michael de la Haye:** The member who brought the matter to the States Assembly for debate was—coincidentally—an assistant minister in the education ministry at the time. She did not wear that hat when she brought the proposition, so it was not an education ministry matter, but she still had that hat. She visited schools and talked to young people. She canvassed opinion and her assessment was that there was quite strong support for the change. However, that did not
necessarily translate into young people taking the opportunity when they were given it.

The Convener: I ask Stuart McMillan for a short question, because I am anxious for us to get to child protection issues before I wind up the session.

Stuart McMillan (West Scotland) (SNP): Good morning, Mr de la Haye. I seek a wee bit of clarification of something that you said. You highlighted a point in relation to 16 and 17-year-olds, and particularly 16-year-olds, going on the electoral register. When do you undertake to get young people on the register? Does that happen when they turn 16 or when they are 15? I ask because I think you said that someone goes on the register when they turn 16.

Michael de la Haye: That is right. I understand that our law differs from that in the United Kingdom. In Jersey, a person must be 16 before they can apply to be on the register—we have no form of pre-registration, so a 15-year-old cannot register in advance of a particular date.

The law says that people who apply for registration must be 16 or over, so they cannot apply in advance. Our sub-committee that is reviewing the law is looking at whether we should be able to capture people who will be 16 by a given date. At the moment, no one goes on the register until they are at least 16.

Stuart McMillan: If that is the case, what is the estimated number of 16-year-olds who have been disenfranchised when an election has occurred because they could not apply to be registered before the closing date for applications?

Michael de la Haye: I have not looked at the statistics but, in theory, the figure should be fairly small. As I said, we do not have an annual cut-off date such as 1 December or 1 August. Registration remains open in effect until the eve of the nomination day for an election, which is usually about three to four weeks before the election. Unfortunately, a small group will turn 16 in those three weeks. If they were politically active, I imagine that they would feel particularly aggrieved, because they would be 16 on voting day.

As I said, the sub-committee that is looking at our law is aware of the issue and I think that it will make recommendations on it. If the vote is given to 16-year-olds, it seems only fair that they should be able to vote if they are 16 on the day of the election.

I do not know the Scottish position on the cut-off date for the referendum. I assume that a cut-off date will be set; I am sure that you will look at that.

Linda Fabiani (East Kilbride) (SNP): I have a quick question that relates to Michael de la Haye’s last point. Was the decision about registration taken because of data protection concerns?

Michael de la Haye: No. Your committee’s clerk kindly sent me possible areas of questioning, and I confess that the subject that jumped out at me and which I did not expect was data protection. I wondered where the committee was coming from on data protection.

What might be a big difference in Jersey—it might address some of the committee’s concerns—is that we have no system of selling or allowing our register to be used for other purposes; it is purely an electoral roll. In Scotland and the United Kingdom, the register can be used by credit rating agencies, for example. In preparing for this meeting yesterday evening, I looked out of interest on the internet and found www.peopletracer.co.uk, which allows people to pay money to access the electoral register.

Jersey does not have such a system and has been firm about that. We have had a lot of pressure from the UK’s largest credit rating agency, which sent some of its chief executives to meet a committee of ours a couple of years ago. Those executives said that the position of people in Jersey was being prejudiced and that they would not be able to get credit cards because agencies could not access the electoral register. In practice, people can apply to their parish simply for certification that they are on the register. The fact that the register is not used in the way that it is used in the UK lessens greatly the data protection issues.

10:30

When I spoke to our data protection commissioner, she expressed a slight concern about a public copy of the register being available in the public library. It does not have any dates of birth but it contains names and addresses, and I think that, if she had her way, she would want the law to be changed to ensure that all that personal information is not sitting in the public library. I should say, though, that it is not available electronically on a website, which I guess lessens some of the data protection concerns.

The Convener: Tavish Scott has a question about schools.

Tavish Scott (Shetland Islands) (LD): With regard to the promotion of voting for 16 and 17-year-olds and charges of political indoctrination, did you have any concerns—well, not you personally, but parents, school teachers and others, which I suppose might include you—about politicians’ imposing not the right to vote itself but their political views on that age group? If so, how did you address them?
Michael de la Haye: The very strong message from our education ministry was that individual politicians would not be going into schools to talk to groups of sixth-formers and so on, because it felt that that was simply not right. Schools organised one or two events that, in a very fair and objective way, brought together all the candidates for a sort of youth hustings. Some candidates were slightly aggrieved and felt that the schools were being overprotective by not allowing people to go in and organise meetings and so on. Nevertheless, the education ministry was quite firm and thought that such moves were inappropriate. Perhaps that might address some of the issues that you are alluding to.

Tavish Scott: Indeed. Was the education ministry reflecting parental concerns? Was the problem being actively raised in letters to local newspapers or in television interviews, or was the issue not as great as might have been envisaged?

Michael de la Haye: No, I do not recall any large groundswell of concern. The main pressure came from the education ministry, which in the 2008 elections firmly said, “We don’t want candidates to go into schools.” For the 2011 elections, it conceded that an event might be put on to which all the candidates would be invited on an impartial basis. As I have said, it was a bit like a youth hustings or some other public meeting for a normal election.

Tavish Scott: I understand your arguments, but how were politicians able to put their case to this new young group in Jersey who were able to vote and participate in elections if they were not able to access schools? After all, that is where most young people will be.

Michael de la Haye: The candidates had to use the other methods that they used for the rest of the population by, for example, having public meetings to which everyone—including younger voters if they were interested—would be invited. As I have said, it was a bit like a youth hustings or some other public meeting for a normal election.

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You, too, will no doubt have to grapple with this interesting question of the extent to which one concentrates on this particular group. One might think that the logical consequence of lowering the voting age would be a pressure to concentrate more on the group of people involved, but the view of some in Jersey is that it is as important to concentrate on everyone and get voters across the piece to turn out. My colleague from Guernsey, who is giving evidence after me, told me that, as a result of that pressure, he had to show that he was not just concentrating on the younger age group by visiting an old people’s home and pressing the case for registration there.

Tavish Scott: So schools were out of bounds to politicians.

Michael de la Haye: Except on a very organised, objective and impartial basis. Even though many of them wanted to and thought it wrong that they were not allowed to, candidates could not come into schools one at a time and speak to groups of people.

Annabelle Ewing (Mid Scotland and Fife) (SNP): You mentioned at the outset that the legislation was passed in Jersey by only a narrow margin. Five years on, is there a significant clamour to repeal it and push the voting age back up from 16 to 18?

Michael de la Haye: No. The change has very much been seen as a one-way street or however one might describe it. Although some people and politicians in Jersey remain opposed to the move and will say, “It was a total waste of time. Why did we do it? I was always against it”, I do not think that anyone has ever suggested we should go back. That would be inconceivable.

Speaking purely as an outsider, I am struck by the anomaly you might have in Scotland of having different voting ages for different elections. I am sure that when the bill is introduced you will examine the question of people being able to vote in the referendum but unable to vote in the following UK parliamentary elections—unless of course you are pressing your Westminster colleagues to do some work on that matter.

Annabelle Ewing: I am sad to say that those matters are outwith our control at the moment.

The Convener: Thank you for your very helpful evidence, which has provided us with an overview of what is going on in your jurisdiction. I hope that you enjoy the rest of the winter in your warmer climes.

Michael de la Haye: Thank you, convener. I have to say that the videolink has been very clear.

The Convener: I suspend the meeting.

10:35

Meeting suspended.
On resuming—

The Convener: We have with us Paul Whitfield, the deputy registrar general of electors (electoral roll) in the States of Guernsey. Welcome to our proceedings, sir. We are grateful to have you with us.

I will start with a general question. Could you explain your role in electoral administration in Guernsey and provide a brief overview of the process of lowering the voting age in your jurisdiction? I will then open the meeting up to questions, with the first question coming from Annabel Goldie.

Paul Whitfield (States of Guernsey): In Guernsey, my role as deputy registrar general of electors involves my wearing two hats, as I am normally chief officer of the Home Department. We have a responsibility for covering the registration part of the election process. In the most recent election, which was in 2012, we put significant effort into engaging with younger voters and had quite a degree of success. You have quite a bit of background information about our structure, but I remind the committee that we do not have a party-political system. We have seven parochial electoral districts, and all candidates stand for 47 independent seats within our Parliament, being known as the States of Deliberation.

In 1972, the voting age in Guernsey was lowered from 20 to 18. As in Jersey, and following the path of other Crown dependencies, there was a move prior to the 2008 election to lower the voting age to 16, the timeline for which was very short. The issue was raised not by an individual member but by a parliamentary committee that at the time was called the House Committee. It took a report to the States of Deliberation to lower the age to 16. That report was cleared in the States in December 2007, in time for the elections of April 2008. The electoral roll was closed in January 2008. There was, therefore, a fairly short time to engage and motivate the younger people to vote. Effort was made to do that by holding a reasonably extensive awareness campaign.

Towards the end of the process of getting people to register, registration slips were sent to each household. Those slips are familiar to people in Jersey, too; households are targeted, rather than individuals. The registration slips contained the approval in law for younger people to engage with the process.

The Convener: That was a very short timescale. Within that timescale, what significant—or insignificant—legislative change was required?

Paul Whitfield: The legislative change related to the Reform (Guernsey) Law of 1948, which was amended to provide a reduction in the voting age from 18 to 16. That had to pass through the States. The timeframe was very short, but the change was approved in the December prior to the 2008 election.

The Convener: Was it a one-word sort of change in legislation, or was there a more substantial change to the law?

Paul Whitfield: It was not a substantial change. It was an amendment, but it was not a particularly difficult change to make.

Annabel Goldie: Good morning, Mr Whitfield. Did you say that you work on the basis of household registration and not individual voter registration?

Paul Whitfield: Yes. Households are targeted with forms. We also have online registration.

Annabel Goldie: We gathered from the evidence from Mr de la Haye from Jersey that young people there have to be 16 before they go on the roll. What is the position in Guernsey?

Paul Whitfield: We allow our 15-year-olds to pre-register in order to ensure that we capture everybody who will be able to vote at 16 at the time of the election.

Annabel Goldie: That is helpful. Am I correct in saying that there were around 29,500 individuals on the electoral roll in 2012?

Paul Whitfield: That is correct.

Annabel Goldie: There was a tight timescale because you changed the law in December, the roll closed in January and the election took place in April 2008. Were there practical challenges in addressing that?

Paul Whitfield: There were considerable challenges at the time. Based on evidence that we have, I cannot tell you the degree of success, but young people engaged and voted.

As I said, there was an awareness campaign once the Government report had gone through and the amended legislation had been put in place; we send a registration slip to all households to confirm who has been successfully placed on the register. The slip was revised to contain further encouragement for young people to engage in the process in the time window that was left. Of course, for the most recent election in 2012, a considerable campaign was done in Guernsey to engage specifically with young people.

Annabel Goldie: I am not a mathematical genius, as my colleagues will confirm, but I presume that the tight timescale in the 2008
election meant that the number of 15-year-olds was small because the roll closed in January.

Paul Whitfield: Yes. The number would have been small at that particular time.

The Convener: I am going to introduce some people who have just arrived and whom Paul Whitfield cannot see because they are sitting behind the videoconference camera.

I welcome members of the National Assembly of the Republic of Serbia. The delegation is led by Zoran Babić, the committee chairman and president of the Westminster Foundation for Democracy Serbia advisory board. Two deputy speakers from the National Assembly of the Republic of Serbia, Ms Gordana Čomić and Ms Vesna Kovač, are also in attendance. I hope that I have pronounced your names correctly.

After that short break in proceedings, we turn to questions from James Kelly.

James Kelly: Bearing it in mind that there is, as I understand it, no legal requirement to include the date of birth on the registration form, what is to stop a 15-year-old who will only be 15 at the time of the election registering ahead of an election and voting when they are not yet 16?

Paul Whitfield: Obviously, there are good checks in place at the time of registration and when voting. Also, good information is put out in our awareness campaign about fraudulent behaviour in relation to the registration process and electoral roll. The bailiwick puts a degree of trust in people, and we have seen no significant abuse of the electoral roll.

James Kelly: You said that “there are good checks in place”.

Is there anything that checks 16 and 17-year-olds against, for example, school or university rolls?

Paul Whitfield: No. We do not use the school or education rolls in Guernsey with regard to the electoral roll.

James Kelly: As I understand it, the data capture process is that a letter is sent to the households, which includes a slip that must be filled in. Are there alternative methods of identifying people in the general population, or 16 and 17-year-olds, who should be on the register but have not applied?

Paul Whitfield: That is a difficult question to answer. We engage heavily with colleges and high schools on the island to encourage young people to register. On making a check against those who could be on the roll, we have, obviously, an estimated number of the young people who will be available. For example, for the 2012 election there were 1,270 potential individuals in that age group, and the hope was that they would be captured for engaging with that election.

James Kelly: Thank you.

The Convener: I am keen that we get evidence on data protection and child protection issues, because we could not get any evidence on those from Michael de la Haye in our previous evidence-taking session. Linda Fabiani will open on that area.

Linda Fabiani: You said that you allowed pre-registration for 15-year-olds and that a note of date of birth could be voluntarily included in that. Were any data protection issues discussed, were any concerns expressed and have any issues arisen since?

Paul Whitfield: Data protection was a consideration, so we spoke to the data protection commissioner. We have some arrangements on which we work closely with Jersey; we share a pan-islands data protection commissioner, for example.

Data protection was not seen to be a problem, simply because there is no requirement to put age on the household registration slip. As happens in Jersey, date of birth is not recorded on the electoral roll. We do not use the Guernsey electoral roll for any other purpose. Although it is publicly available, the age groups are not identified in the registry or on the roll itself.

Linda Fabiani: Thank you.

The Convener: Patrick Harvie had questions on publicity and schools.

Patrick Harvie: You mentioned in passing to one of my colleagues the awareness campaign. During the political debate about whether to make the change, there would have been a level of public awareness. In the months that followed, up to the election, what activities took place to promote not only registration for 16 and 17-year-olds but participation in the election? Do different bodies have responsibility for those different functions?

Paul Whitfield: The political starting point is that there is no party politics in Guernsey. It is considered that because politicians stand for independent seats it would be inappropriate for them to visit schools in an uncontrolled way to engage with pupils about their mandate to vote. However, given our structure and the responsibility of my role and the department, we conducted an extensive campaign with our education department to engage with and encourage young people to be stimulated by the process.

Pupils undertake citizen awareness programmes within the curriculum, which include political awareness. We joined up with that
process and visited all the high schools and colleges on the island. We gave presentations and talked about the history of voting, why it is valuable to our society, our democratic style of Government—the 47 independent seats—and why voting is important now and for the future for those young people and for the island.

We stimulated people about voting and talked about the process and how to register, including registering online. We also used Facebook to try to provide attractive means for people to register. We had a website so that people could find information about how the awareness campaign was developing and how they could engage with it.

We were delighted by the take-up by young people. Statistical information in Guernsey is quite difficult to get for various reasons—one being that dates of birth are not included on the electoral roll. However, it was interesting that quite often the older generation in households—the parents—did not register, but the young people did. We put that down to our extensive campaign to engage with young people.

11:00

Patrick Harvie: Can you tell us anything about participation of newly-registered 16 and 17-year-olds in the election? Your colleague from Jersey could not break down the turnout statistics for that age group. Are you able to do that?

Paul Whitfield: Sure. It is difficult, because we do not make it compulsory to record date of birth, but more than 600 young people did record their dates of birth—more than 50 per cent of the potential number in that age group registered—and 156 15-year-olds pre-registered and went on to vote in the election. As far as we are concerned, the outcome was positive.

Rob Gibson: The collection of data is interesting. I understand that you have seven districts. Do they all take part in collecting data, or is there a centralised system?

Paul Whitfield: Two things happen. There are seven electoral districts, but information in relation to the electoral roll is collated centrally.

Rob Gibson: Okay, thank you. We do not need to go further into that.

Annabel Goldie: I have a wee technical question, which relates to child protection. Because electoral registration is done on a household basis and you include 15-year-old attainers, is there provision for keeping the address of a 15-year-old undisclosed for the purposes of the final register?

Paul Whitfield: I hope that I understood your question correctly. We do not envisage a problem with the roll, because although the occupants are transferred on to the electoral roll after the information on the household has come in, their ages are not shown. Someone who was looking at the roll would not know a person’s age unless the person was familiar to them.

Annabel Goldie: However, if a 15-year-old were the subject of a non-disclosure order in relation to their address, because of difficulties in the family, would there be any way in which their address could be withheld, if they wanted to vote? Could they just be put on as an eligible voter?

Paul Whitfield: I am not sure that I have the answer to that. I can certainly come back to you, if that would be useful.

Annabel Goldie: Thank you.

Stewart Maxwell: You said that candidates are not allowed to go into schools, for obvious reasons. Was it permissible for written material from candidates to be distributed to 16 and 17-year-olds in schools?

Paul Whitfield: Indeed, it was. The mandates of all the independent candidates were made widely available, including in schools. Some schools ran mock elections, which included registration and voting. Some of our politicians went into schools to talk about the purpose of the election process but not to sell a mandate or interest in themselves. They were there to encourage involvement in the electoral process.

Stewart Maxwell: I presume that such access was strictly controlled, given the necessity for political balance, in order to avoid allowing a particular candidate to access 16 and 17-year-olds while another could not do so.

Paul Whitfield: That is absolutely right. We worked closely with the education department on how we would introduce anyone who wanted to engage politically with pupils or students. Engagement was purely about awareness of the election process; it was not about individual politicians.

Stewart Maxwell: Were the views of 16 and 17-year-olds—and, perhaps, 15-year-olds— canvassed in advance of the change in voting age in order to ascertain their opinions on the lowering of the voting age? Did you come across practical difficulties for young people when they voted in polling stations, or did they find voting as easy or difficult as other members of the population find it?

Paul Whitfield: To answer the first part of the question, before the 2008 election, the House Committee widely distributed a questionnaire to households and young people. It recorded that 56 per cent wanted the voting age to be reduced and
54 per cent said that, if it was reduced, they would certainly vote in the 2008 election.

No particular difficulty was perceived with the process and young people. At the time, we put up quite a lot of information on our website and Facebook page to take out the fear factor and the perception that it is a boring thing to do. We tried to demonstrate how voting is very simple and how much value young people would add by taking part in the process.

**The Convener:** Thank you. Tavish Scott has some questions.

**Tavish Scott:** Stewart Maxwell has pretty much asked the questions that I was going to ask.

**The Convener:** There are no further questions, so I thank Paul Whitfield from the States of Guernsey for joining us this morning. I am very grateful to you for giving us your evidence. It has been very helpful in giving us a broader overview of some of the challenges that we might face in Scotland. Thank you. Enjoy the rest of your winter in Guernsey; I am glad for your sake that you are not here. [Laughter.]

**Paul Whitfield:** Thank you, and thank you for asking me. [Interruption.]

**The Convener:** That is my phone ringing.

**Members:** Ooh!

**The Convener:** Just give me two seconds. I think it would be appropriate for me to reprimand myself severely for allowing that to happen, given that I usually tell everyone to switch their phones off at the beginning of meetings.

That brings us to the conclusion of this week’s meeting and evidence session. The next meeting is scheduled for 21 February, when we will continue to take pre-stage 1 oral evidence on the draft franchise bill, and we will hear by videoconference from Stephen Carse, who is an electoral registration officer on the Isle of Man, and we will hear from Gordon Blair, who is a returning officer from West Lothian. We will also consider our approach to the draft franchise bill, including potential witnesses and a call for written evidence.

With that, I thank you all for your attendance this morning.

*Meeting closed at 11:07.*
Scottish Parliament
Referendum (Scotland) Bill Committee
Thursday 21 February 2013

[The Convener opened the meeting at 09:31]

Proposed Referendum Franchise Bill

The Convener (Bruce Crawford): Good morning. Welcome to the fourth meeting in 2013 of the Referendum (Scotland) Bill Committee. Our first piece of work is a discussion with Stephen Carse, who is the registration officer of the Isle of Man Government.

Welcome, Stephen. Thank you for agreeing to speak to us. Do you want to start by making a general statement about what you do?

Stephen Carse (Isle of Man Government): Thank you for the invitation. I hope that what I have to say will be of use to you in your deliberations.

I am the acting registration officer for the Isle of Man Government and I have undertaken that role since January 1989, so I have 24 years’ experience behind me. The responsibility is not my major role in the Government. I act as the Government’s economic adviser and I inherited the role of registration officer when I took up that post in 1989.

The responsibilities of the registration officer are dealt with in the Isle of Man under the Registration of Electors Act 2006. My duties are concerned with the preparation, maintenance and revision of the register of electors. Attendant duties involve distributing the register, hearing appeals, objections and so on and, ultimately, making the final revisions to the register.

To help me to do that, I have within my division, which is part of the Government Treasury, four professionals and seven support staff, who help the professionals in their everyday duties. They are mainly responsible for the compilation and administration of the electoral register.

We build up the register from the local electricity company’s database, which has comprehensive coverage of all the properties on the island. Eligibility for registration is fairly straightforward. You have to have lived on the island for more than a year and you have to be over the age of 15. We register on a household basis. We have yet to fully consider individual registration, although it has been spoken about politically.

We produce revisions to the register every quarter. We have 24 elected members across 15 constituencies, so in some of those constituencies there is more than one representative.

The Convener: Thank you. That was a good overview. What has been your experience of the process of lowering the voting age to 16 on the Isle of Man? If you can provide a general overview, that would be helpful.

Stephen Carse: A combination of changes happened in 2005 and 2006. Commencing in December 2005, the Registration of Electors Bill was going through the houses and, at the same time, the Representation of the People (Amendment) Bill was going through. We also had an internal matter, which was the fact that our mainframe computer system, which handled our registration and registers, was about to be dismantled. That was due to happen by May 2006. We were not going to lose the database of names and households and so on, although we found that not all the details on existing registers could be readily transferred over to the new software that we had to use in the event of the loss of the mainframe. We had three situations arising that we needed to be aware of from an administrative perspective.

When the Registration of Electors Bill began its passage in 2005, it was essentially going to do one thing, which was to move us on to a rolling register basis. Until then, on 1 September every year we produced an annual register, which could not be changed. That meant that people who would otherwise be eligible to vote were being disenfranchised because of the long lead-in and the fact that a register lasted for one year.

The main purpose of the Registration of Electors Bill was to enable me, as registration officer, henceforth to produce quarterly revisions to the registers. At the second reading of the bill, which I think was in February 2006, a member successfully moved an amendment to lower the voting age from 18 to 16. That amendment was accepted—I think that 19 were in favour and four were against. In May, that provision was included in the Representation of the People (Amendment) Bill, which, as I said, was going through simultaneously. As was necessary, the age of 16 was entered in those two important pieces of legislation.

Both bills completed their passage in March 2006, received royal assent on 11 July and were accepted in our Parliament, Tynwald, on 12 July 2006.

Annabel Goldie (West Scotland) (Con): Good morning, Mr Carse.

Stephen Carse: Good morning.
Annabel Goldie: I am interested in the period between when the law changed and the first election, which I think was November 2006. Do I understand from what you were saying that everybody knew from about February 2006 that the voting age was going to be reduced?

Stephen Carse: Yes. The election date was 23 November 2006. There was always a strong possibility that, subsequent to royal assent, we would be dealing with a register that would have to include 16 and 17-year-olds.

Annabel Goldie: Did that mean that you were able to prepare in advance? I think that the forms went out in January, February and March 2006.

Stephen Carse: Yes. We were following the normal procedure, which was to canvass the population from January onwards. We were compiling the register on the traditional basis, while fully expecting royal assent to be given in July so that we could include the 16 and 17-year-olds, too. We were operating on the basis that the rolling register would be accepted and brought in and that we would have to compile a rolling register.

Annabel Goldie: Am I correct in saying that the Isle of Man’s population is around 84,000?

Stephen Carse: Yes—it is 84,000.

Annabel Goldie: I know that there was concern about disenfranchisement and that an inquiry was held in the Tynwald about that. What did that inquiry discover?

Stephen Carse: We were about to lose key details on the register’s database. In effect, we had to start afresh when compiling the register in 2006. Previous registers included an accumulation of details, such as the name of individuals who were on the registers, but who might have left the island or who had certainly not registered for a couple of years. That inevitably meant that there would be fewer numbers on the new registers than there were previously. We were, if you like, shaking out those who were no longer living on the island or who had no apparent interest in renewing their inclusion on the registers.

Annabel Goldie: At the end of the day, was there a significant number of people who were entitled to vote but ended up not voting?

Stephen Carse: The number of people who were entitled to vote and did vote was probably unchanged. However, we were in the process of eliminating from the new registers those who were not eligible because they had left the island, those who might have registered sometime in the distant past but who had refused the opportunity to renew that enlistment in subsequent years and those who did not bother to register when we opened up the new registers in 2006.

Annabel Goldie: You approximately had the period between February 2006 and November 2006 to get the register fit for purpose. Was that enough time? Were you under pressure?

Stephen Carse: We are always under pressure at the time of a general election. Things are much more relaxed in the intervening five years but, when it comes to a general election, naturally, political and public interest is a lot more focused on the accuracy and the size of the register that we have compiled. We did not need any extra staff; as I recall, there was a bit more overtime in the peak months. We fared comfortably.

There was a degree of public misunderstanding about why the numbers had gone down. The inquiry to which you referred at the outset of your questioning, which was undertaken by Mr John Wright, a local advocate, was initiated partly because of that less than full understanding of why the numbers were down. The initial reaction was that that was because the administration had not been correct—that we were not performing our task, if you like.

The report concluded that, in fact, we were fully up to the task and that the reasons why the numbers were down simply that we had eliminated all those who had left the island and that we were excluding those who had not bothered to respond to the latest request.

09:45

James Kelly (Rutherglen) (Lab): You outlined in your opening statement the way that the process was changed for those who were over 15 so that they could be on the register and therefore entitled to vote. Was there anything in the process that allowed those who were 15 and approaching their 16th birthday to pre-register?

Stephen Carse: Yes. We have a system whereby anyone who is approaching the voting age can be put on the register. Obviously, prior to 2006, that was 18. We have always had what we call attainers, or those who are coming up to the eligible age. We put them on the register, and alongside their name and address we have the date at which they will attain voting age. Therefore, in the context that we are discussing, it did not matter if someone was not 16 because, if they were coming up to that age, they could complete the registration form—in practice, they would add their name to the household registration form—and they would subsequently be entered on the register.

James Kelly: Were the names of 15-year-olds who registered in that way published on the register while they were still 15, or were they kept as a separate list?
Stephen Carse: They were published on the register, as long as they were eligible to vote in the subsequent quarter. We should bear in mind that, at the same time, we were adapting from a once-a-year register to a quarterly one. Therefore, if someone was aged 14 when they sent in the application, we would not add their name to the register. We added those who were close to becoming 16.

James Kelly: Did that lead to any data protection or child protection issues, bearing in mind that you were publishing the names of 15-year-olds in a public document?

Stephen Carse: It did not lead to any data protection concerns. The issue was discussed during the passage of the bill, particularly in the upper house—the Legislative Council—where concerns were expressed in respect of human rights and the United Nations Convention on the Rights of the Child.

James Kelly: Ultimately, what view was taken on that when the legislation was passed?

Stephen Carse: The concerns were merely noted. Certainly, when the legislation was introduced, there was no provision for the creation of a side register, as I understand is to happen in Scotland, and there were no moves to remove the identification of such individuals.

James Kelly: That is interesting. You outlined at the start that you used the electricity company’s database to identify households in your canvass. Did you use anything specifically to identify 16 and 17-year-olds, or those approaching 16, so that they could be targeted?

Stephen Carse: Are you asking about how we could get 16 and 17-year-olds interested enough to register?

James Kelly: Yes. There was a new element to the franchise. Your existing processes simply identified households, so you did not know specifically about the 15, 16 and 17-year-olds who were out there. Did you have a mechanism for identifying that group and making a particular appeal to get them on to the register?

Stephen Carse: No. Our data protection officer was concerned that we did not use any existing information, be it school rolls or information from other Government departments, so we were unable to match records in that way. All that we could do was to address the issue in a more general sense and try to raise the media profile of the matter. To do that, we took out public notices and we had a stream of interviews and related articles in the press.

We also went to the schools and we put posters in the secondary schools. Some of the schools sent out registration forms along with GCSE results, which was an interesting initiative. We did as much as we could to raise the profile of the matter, but royal assent was not given until 12 July, so the time that we had to raise awareness and interest was relatively restricted. That was shown by the relatively small numbers who registered in 2006 compared with the numbers that we have now.

James Kelly: What were the numbers, if you have them to hand?

Stephen Carse: I have them in front of me. We also had a population census in 2006, which was also run out of my office. The census results show that the maximum number of 16 and 17-year-olds who would have been eligible was 2,001. I say “maximum” because some of them would not have lived here for the required 12 months. All that I have given you there is the total number of 16 and 17-year-olds at the time.

James Kelly: Do you know how many of the 2,001 registered?

Stephen Carse: Yes. It was 689, which is 34.4 per cent. Of those, 397 voted, so out of the 689 who registered the turnout was 57.6 per cent.

James Kelly: Thank you.

Annabelle Ewing (Mid Scotland and Fife) (SNP): Good morning, Mr Carse. I note from the briefing that our clerks have helpfully provided us with that, moving on towards the 2011 election, further initiatives were undertaken to encourage 16 and 17-year-olds to register as voters and, I presume, to encourage a higher turnout. I understand that you organised some informal information sessions called “vote right”, which were held at the island’s youth cafe in Douglas. Will you explain what form those sessions took? Was there a direct correlation with an increase in registrations following those information and awareness initiatives?

Stephen Carse: I am not particularly familiar with that initiative and I did not attend the sessions, but a whole stream of things went on in the build-up to the 2011 general election. You should bear it in mind that we had had five years of a drip-drip effect on awareness and so on.

The most impressive thing that we did, which would undoubtedly have helped registration rates and indeed turnout on the day, was the production of a DVD and video by the students at a local college. It was based on something that a Lancashire council had produced—I think that it was Preston City Council. We pretty much copied that. The film was put on monitors at every secondary school; it was put on YouTube, it was referred to on and accessible through Twitter, and it was placed on a couple of local websites,
manx.net and manxtube.com, which are popular with local teenagers.

We just intensified the whole thing. We did more interviews with the press than we did in 2006 and there was more coverage on radio. A whole host of things were done in 2011, and that was reflected in the far better figures for that year. If you wish me to give you those figures, I can read them out.

Annabelle Ewing: Yes, please—that would be helpful.

Stephen Carse: The maximum number who were eligible was 2,052, of whom 1,234 registered. That is 60.1 per cent. Of those, 668 voted. That turnout rate was 54.1 per cent. That was lower than in 2006, which is interesting. We got more people on to the registers with the eligibility to vote, but marginally fewer people turned out on the day. I suspect that, in the intervening years, the heads of household started to include 16 and 17-year-olds on their returns, but we perhaps did not raise the propensity to vote as much as we might have liked.

Annabelle Ewing: That was presumably something to do with the political debate—who knows? I guess that that is an imponderable. It is interesting to note the increased registration figure, taking into account what I think was an increased level of information awareness activities, judging from what you have been saying. We can perhaps take that on board here in Scotland from the outset. It would be helpful if, in due course, you could provide our clerks with a link to your video. I am sure that we would be interested to see it.

I have a further general question about the principle of lowering the voting age. Is there any serious clamouring in the Isle of Man to reverse the decision of 2006 to lower the voting age to include 16 and 17-year-olds—in other words, to increase the minimum voting age to 18 again?

Stephen Carse: I am certainly not aware of any moves, politically, to do that. When the bill was going through, there was an overwhelming majority in passing the amendment clauses. I do not think that there is any such demand. As far as public perception and opinion were concerned, there was a great deal of scepticism initially. Now, following the change that happened seven years ago, there is far greater acceptance. The one-word answer to your question is no.

The Convener: Before we have Patrick Harvie’s question, could you give us the overall turnout figures for the 2011 election, so that we can compare those with the figures for 16 and 17-year-olds? That would be helpful, as it would give us a benchmark.

Stephen Carse: The total number registered in 2006 was about 52,000. By 2011, it was up to 58,000. An element of that 58,000 would have come from the fact that we were still leaving people on the registers, even if they had not responded to the previous canvassing requests. Nevertheless, the population expanded between 2006 and 2011, so we would have naturally expected an increase.

Unfortunately, I did not bring with me the turnout rates for the whole of the population in 2006 and 2011, but I can readily supply that information.

The Convener: No worries—we can get that from you later.

Patrick Harvie (Glasgow) (Green): I want to follow on from Annabelle Ewing’s questions about registration and participation. In Scotland, registration takes place at local government level, while the Electoral Commission neutrally promotes awareness of and participation in the election nationally, and the candidates and political parties obviously promote participation in their favour. In your jurisdiction, is there a separate function for the promotion of participation similar to that of the Electoral Commission here? To what extent was there a barrier to schools and colleges facilitating not only the promotion of registration but the promotion of participation, for example with candidates appearing on a neutral basis at panel sessions with young people to encourage them to participate?

10:00

Stephen Carse: We have no links with the Electoral Commission, so pretty much all the efforts fall at the door of my section, at least with respect to registration, although not so much with respect to the turnout. We facilitate things and we might participate in events, but my particular responsibility is to focus on the process rather than on the political dimension of getting people, particularly youngsters, interested in using their vote.

Various things went on to raise awareness—someone alluded to cafe meetings and so on for the youngsters. We also have what is called a junior Tynwald debate—Tynwald, as you will be aware, is our Parliament. In July 2011, such a debate was specifically convened that raised a great deal of interest. In those sessions, youngsters come in and take the places of the members of the House of Keys—the political representatives. They go through the formal procedures of a typical day in Tynwald and ask each other questions about various topics. That debate was useful and was covered extensively by the media. I am sure that it helped to raise interest in the upcoming general elections, which had been
moved forward to September 2011. A whole host of things went on. My role in the background was just to facilitate and raise awareness of registration issues.

**Patrick Harvie:** Is there a barrier—legally or in any other sense—to schools facilitating the involvement of candidates in promoting registration or participation?

**Stephen Carse:** Not as far as I am aware. I can recall discussing whether we—the group of officers—wished to convene such things in school premises and we were not told that we could not.

**Patrick Harvie:** Thank you.

**Stewart Maxwell (West Scotland) (SNP):** To go back to the 2006 process, did you undertake any staff training, in particular for staff who were working at polling stations as well as for other staff who were involved in the election process, in anticipation of their perhaps having to deal with younger voters—16 or 17-year-olds—who were voting for the first time? If so, what training did you undertake? Are you aware of any problems that occurred at polling stations with the process of young voters coming to vote for the first time?

**Stephen Carse:** Our duties start and finish with the polling stations or whatever. On the day of the election, we man the phones in case someone at a polling station complains that they should be on the register and that they have turned up to vote but they are being prevented from doing so because their name does not appear on the register. We are involved in that respect on the day, but not otherwise. We do not have a physical presence at the polling stations. Our duties are more or less over by the time that we produce the register that will apply to the election.

**Stewart Maxwell:** Given that you man the phones in case problems arise, are you aware of any problems that arose with 16 and 17-year-olds turning up to vote who did not understand that they had to get on the register, or did it go pretty smoothly? Was that group of new voters in effect the same as the rest of the population?

**Stephen Carse:** Yes. I was not made aware of any specific instance in which a 16-year-old found himself or herself unable to vote because he or she was not on the register. Generally speaking, the 2006 election went okay.

**Stewart Maxwell:** Was any follow-up work done on the process? Was a survey done following the 2006 election to examine the process and to see whether it had gone as smoothly as you had hoped it would in terms of the understanding of new voters and the process at the polling stations?

**Stephen Carse:** As has been said, a report was commissioned on the 2006 election. That focused on the registration procedure, because the numbers were down so much on what we had been used to. I have explained the reasons for that, and the same reasons were given in the final report. No work was commissioned on registration or turnout rates among 16 and 17-year-olds.

**Stuart McMillan (West Scotland) (SNP):** The Wright review of the 2006 election was produced in 2007. Did a review take place after the 2011 election, with a focus on 16 and 17-year-olds?

**Stephen Carse:** No. After every general election, we convene meetings of my people, returning officers and other people who have been involved at some stage in the election process. At those meetings, no difficulties or other issues that affected 16 and 17-year-olds were raised.

**Stuart McMillan:** Before the 2006 election, you had from February to November 2006 to get the register into the correct and appropriate shape. You said that you dealt with that comfortably and that that was enough time. Here in Scotland, the debate has taken place for some time and the referendum is due in autumn 2014. Do we have enough time to get the register into the correct and appropriate shape for the referendum?

**Stephen Carse:** I am not too sure that I am in a position to say anything definitive about that. However, to state the obvious, the longer the time, the better. Scotland has the benefit of the issue being high profile and of having a run-in even to the current point, because of the issue's importance. I would expect Scotland to be more successful in getting youngsters to register and subsequently turn out and vote.

**The Convener:** I will ask a general question. Given what you have undertaken and seen in your role, what lessons can we take for the Scottish experience from the Isle of Man? Did you face wider challenges in introducing the vote for 16 and 17-year-olds?

**Stephen Carse:** The only difficulty that we had in adapting to 16 and 17-year-olds voting was that we started from a position of ignorance among 16 and 17-year-olds. In the Isle of Man, the change came somewhat out of the blue. A bill was going through to introduce quarterly registration and the quarterly production of electoral lists. During that process, an amendment was made to reduce the voting age to 16. No significant prior political or public debate had taken place on the merits of giving 16 and 17-year-olds the vote.

Scotland will have the advantage that the issue has been debated. People know that there is a good chance that the change is coming, so there is already awareness. We did not have just four or five months to administer the system; we had only four or five months to raise awareness and embed
it in kids’ psyche that they would be presented with a great new opportunity.

The introduction of voting for 16 and 17-year-olds was a minor administrative issue in comparison with having to do quarterly registration, which required more changes in our software. Changing the eligible age from 18 to 16 involved only a tweak to the software program.

The Convener: I have no more general questions, and nobody else has questions. I thank Stephen Carse for his helpful evidence. We send our best wishes to the Tynwald and the House of Keys.

Stephen Carse: Thank you for inviting me to give evidence. I hope that my contribution has been of some use, and I will pass on your regards to our members.

The Convener: We will have a break for a couple of moments to sort out the information technology system.

10:10

Meeting suspended.

10:15

On resuming—

The Convener: For our next evidence-taking session, we will hear from Gordon Blair, who is the depute returning officer for West Lothian Council and the chair of the elections working group of the Society of Local Authority Lawyers and Administrators in Scotland. I welcome Mr Blair and thank him for coming to help us with our deliberations.

As a general question to set the scene—a starter for 10—the committee is interested in the role of the counting officers in referendums and their relationship with chief counting officers and the Electoral Management Board for Scotland. How do electoral registration officers, returning officers and counting officers relate to one another? If you could give us an overview, that would be helpful.

Gordon Blair (West Lothian Council and the Society of Local Authority Lawyers and Administrators in Scotland): In a nutshell, the counting officer has an operational role in conducting the poll and conducting the count locally. The chief counting officer has the role of ensuring the proper and effective conduct of the referendum, both by overseeing the conduct locally and by having the power of direction in respect of local counting officers. The chief counting officer has not just a co-ordinating role, but a functional role. At the end, the chief counting officer must also certify the national result.

The relationship with the electoral registration officers is, quite simply, that the EROs produce the register and the absent voter lists for postal voting. The relationship with the Electoral Management Board for Scotland is that the EMB has a co-ordinating role for elections. For example, if the convener of the EMB is the chief counting officer, clearly the EMB’s role will be to advise the CCO and to issue, or assist with the issuing of, guidance from the CCO to local counting officers on the conduct of the poll. The CCO can also issue particular directions, which then become mandatory to follow.

The relationships on the ground have been excellent up till now. Those have been fostered particularly through the EMB. There is a good working relationship, both locally and nationally, with the EROs and the returning officers who will become counting officers. I have no reason to think that that close working relationship will not continue for the referendum.

The Convener: When the Parliament eventually passes the referendum franchise bill that we are discussing today, the Electoral Management Board will produce advice, guidance and general direction for all counting officers in Scotland to try to ensure consistency across Scotland. Is that the general purpose of the Electoral Management Board?

Gordon Blair: Technically, the power will lie with the chief counting officer, but the Electoral Management Board will clearly be the forum that the chief counting officer will use as a sounding board on an operational basis. So, yes, between them they will have that purpose. The CCO’s power of direction will come into play, so there will be not just guidance but directions on the key areas for the purpose of, for example, the consistency that you mentioned.

James Kelly: I have a couple of questions on the organisation of polling stations for 16 and 17-year-olds and on the timing of the count. Assuming that the bill is passed, we hope that many 16 and 17-year-olds will take the opportunity to participate in the referendum. We want to ensure that the system is as efficient as possible when they turn up at their polling station on polling day, so that they can vote and will return at future elections. Many people among the general population who are not 16 or 17-year-olds will also vote for the first time. Has any specific consideration been given to ensuring that the referendum voting experience is as smooth as possible?

Gordon Blair: That has not been done as yet, as I think that it is too early for that. However, the issue will be the focus of attention on two fronts. There will be awareness raising generally, which will start with the Electoral Commission. It is
proposed that it should have the power to provide information to voters under the referendum bill. We will need to tie into that locally and give messages on the ground that are consistent with those that come from the Electoral Commission.

The other factor that will come into play will be the extent to which we will need to support the polling staff who issue ballot papers by providing additional staff, for example, as information providers. We have done that before in single transferable vote council elections. There will be a combination of awareness raising beforehand and on polling day.

Another gap relates to postal voters. The content of the postal vote package is regulated by legislation. Postal voters will not vote in a polling station, so they will need to be given attention. We will need to consider whether the postal vote package should include an explanation of the voting procedure.

Those issues still need to be picked up, and I am sure that the EMB and the chief counting officer will pick them up.

James Kelly: You mentioned the need for additional support for polling station staff. We would not want a situation in which 16 and 17-year-olds arrive to vote for the first time and there is an unnecessary queue at the polling station. Bearing in mind that some people have said that the turnout in the referendum might be as high as 80 per cent, will consideration be given to increasing the number of polling stations in the polling districts in order to move voters smoothly and efficiently through the polling stations on polling day?

Gordon Blair: The simple answer to that is yes. In every election, one of the risk assessment areas is the polling scheme, or the number of polling stations in each polling place. The number of stations is determined by several factors, not least of which is our estimate of the likely turnout. As a rule of thumb, the higher the turnout we expect, the more stations we need so that the throughput is managed, particularly at the normal peak times. Those are at tea time, shortly after tea time and in the early evening, for example, although peak times can occur at other times of the day. The number of stations could be increased. The EMB and the CCO will no doubt consider guidance on whether there should be more stations than normal.

Other logistics come into play, such as the physical restrictions of buildings. There is also a question about balancing the increased number of stations and the number of polling staff who are on hand to assist voters, whether they are young or old. We can anticipate questions that voters of any age will ask at the polling station, and I suspect that extra staff will be needed to cover that. That takes us on to the issue of the script that we should give polling staff to answer those questions, which will no doubt be addressed. In the past, that has been dealt with through guidance from the Electoral Commission, and I hope that we will have the same kind of facility again so that there is a consistent approach on the information that is given.

I think that we would address the point that you made with those factors.

James Kelly: Thank you for that comprehensive answer.

With regard to the timing of the count—and thinking again of 16 or 17-year-olds voting for the first time in a major referendum—people will be keen to see the result as soon as possible and, of course, its accuracy will be important. Have you given any thought to the timing of the count? I know that my personal preference—and that of every other politician—is for it to start as soon as possible to ensure that we get the outcome as soon as possible. I note that some of my colleagues are smiling at that.

Gordon Blair: Yes, we have given the matter some thought. Clearly the EMB and the chief counting officer will have to consider it; in fact, it was the subject of a direction by the CCO for the alternative vote referendum and, in turn, for the council elections. I cannot tell you what the outcome of that consideration will be, as there will need to be a degree of consistency in the matter but, following the Gould report, I think that the principles underlying any decision should focus on what is in the voter’s interest, which will first and foremost be about the count’s accuracy and transparency rather than speed as an objective in itself.

The timing of the count will also depend on logistics across the country. As everyone will know, one or two areas such as the Inner and Outer Hebrides will have difficulty in getting in all their boxes, doing the count overnight and transmitting the result locally to the chief counting officer. Moreover, as I understand it, the desire in the draft referendum bill is for a national result to be declared before any local result, and we will have to factor in the impact of that on overnight counts and the fact that local people will want to know what the local result is. If there is to be no local declaration before the national declaration, there will have to be clear guidance on what the local counting officer has to do vis-à-vis the chief counting officer to preserve that objective.

A lot of factors need to be discussed, including absent voter identity checks on postal voters. An increasing number of postal votes are coming back with the ballot box at the close of the poll
and, given the requirement for 100 per cent checking, the process is not quick. In that respect, another little risk assessment should be carried out with regard to 16 and 17-year-olds, whose signatures are—so we are told—likely to change quite a lot at that age until they finally settle down. If their postal voting statement comes back to us with something different from what they put to the registration officer in the first place, it will cause difficulty. That is not a five-minute job.

All those logistical factors will come into play and decisions will have to be made on that basis. I cannot pre-empt the discussions that the EMB and the chief counting officer will have, but I can say that the chief counting officer consulted stakeholders on the timing of council election counts and I am sure that all views, including those of the committee, will be asked for and, no doubt, given.

The Convener: I do not know about 16 and 17-year-olds, but I can say that my own signature changes from hour to hour.

I believe that Rob Gibson has a supplementary to James Kelly’s question.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): Indeed. Good morning, Gordon—

The Convener: I am sorry, Rob, but I should remind folk that, in this session, we are discussing the franchise bill for 16 and 17-year-olds. For perhaps understandable reasons, the discussion is beginning to widen out a bit.

Rob Gibson: I wonder whether there might be extra lessons for us in the experience of the 1997 referendum, which had a high turnout. Is there anything that we can learn from that referendum that might affect our approach to the extended franchise for the 2014 referendum?

Gordon Blair: I have to confess that you are testing my memory of the 1997 referendum, but I think that to begin with we will be looking most closely at the AV referendum to see how referendum might be conducted. Given that 16 and 17-year-olds will be voting for the first time in the 2014 referendum, I do not think that the 1997 referendum will give us much insight in that respect.

We have to gauge the impact of 16 and 17-year-olds voting, which means considering a number of factors, not least of which is the way in which we go about raising awareness. There are one or two issues with the draft referendum bill, which I can expand on if you would like me to. There are also issues with the way in which we go into schools. The committee has heard evidence from Jersey, Guernsey and the Isle of Man about going into schools. That is essential, and my council and other councils do it. However, there is no power in the draft bill to encourage the participation of the chief counting officer or the counting officer; it all lies with the Electoral Commission.

10:30

The Convener: What did you say about there being no power? I did not quite pick that up.

Gordon Blair: As the draft bill stood when it was published, no power was given to the chief counting officer or the counting officer to encourage participation in the referendum, as there was with the AV referendum in 2011. The power to engage the voters with information lies with the Electoral Commission. We need clarity on that and how it will affect activity locally.

Clearly we are interested in maintaining our engagement locally with young voters. In this case, they will be 16 and 17-year-olds, and potentially 15-year-olds who will be 16 by the date of the referendum. We will therefore need two things. First, before the legislation is finalised, we need it to be clear about our powers locally. Secondly, we will need a robust framework, including education services, under which we can engage pupils in a neutral way that enables the process of getting registered and voting to continue.

The Convener: Thank you. I hope that Scottish Government officials are listening to this bit.

Tavish Scott and Patrick Harvie have supplementary questions, and then I will come back to Annabelle Ewing and Annabel Goldie, who has a wider question.

Tavish Scott (Shetland Islands) (LD): Mr Blair, will you clarify your earlier remarks about the national declaration as opposed to a local declaration? I am not sure that I understood what you said.

Gordon Blair: The bill says that there is to be no local declaration of the result until the national result has been declared.

Tavish Scott: That was your point about the Inner and Outer Hebrides and how it means that the declaration could take for ever. The result will be tweeted and put out on other social media and everywhere else, so the practicalities of that requirement are impossible, are they not?

Gordon Blair: I would never say that something is impossible, but I agree that it will be difficult to manage. Returning officers or counting officers will have to engage with the observers who are present so that what they send to the chief counting officer is fit for purpose. However, doing so exposes us to the very danger that you just mentioned of leaks through social media. That issue needs to be talked through. No doubt the
chief counting officer will issue guidance about how it will happen, but if the draft referendum bill stands as it is, the policy objective will be to make no local announcements.

The Convener: If I remember correctly, the draft bill was issued in January last year. Lots of comments were made about the bill at that time, and I hope that, by the time that we get the actual bill, issues such as those that Tavish Scott has just raised should be reflected. We shall see. That was a good point.

Patrick Harvie: Good morning Mr Blair. I want to pick up on your points about the lack of a role for returning officers in promoting participation. You also mentioned schools at one point. We have heard about the experiences of Jersey, Guernsey and the Isle of Man, which do not, perhaps because they are smaller jurisdictions, have the functions of the Electoral Commission being held by a specific body.

SOLAR’s point of view is relevant here. As providers of education and schools, local authorities have a role and some schools are keen to have mock elections, even though they do not have voters in their classes. Others are more reticent or think that there is a barrier or problem. Can SOLAR express a view about the role of local authorities in encouraging participation and registration through their provision of school education? Might that involve the facilitation of neutral panel sessions of candidates, and could such sessions become normal practice when the voting age is 16?

Gordon Blair: That is not so much SOLAR’s role. I have been talking to my colleague who is in charge of education services, and it is more likely that the educational perspective would be taken up through the Association of Directors of Education in Scotland so that we have a robust framework to facilitate engagement with pupils as part of the school process.

SOLAR would play its part by putting its views to the EMB with regard to, first of all, whether powers are available locally to encourage participation and, secondly, the tools that could be used—for example, social media. Councils, including mine, use Facebook and Twitter regularly and provide links to relevant websites, such as the registration officer and the Electoral Commission’s “About my vote” website. Guidance is needed about how we monitor those sites for material that needs to be deleted quickly, whether that material is offensive or party political. That is where SOLAR, the EMB and other professional associations involved in elections would come into play. The wider picture is for the educational institutions.

Patrick Harvie: Would you want the committee to consider a change to the bill to broaden or alter the existing powers?

Gordon Blair: Yes, I think that we would. Otherwise, there will be uncertainty about what we can do locally to encourage participation in the referendum. For elections, we have a standing duty rather than a power. However, according to the draft bill—as the convener said, that was the draft of a year ago—we do not have that power in relation to the referendum. We should have that power and it should be clarified.

Patrick Harvie: Some of the other jurisdictions that we have heard from were able to give us an estimate of the number of 16 and 17-year-olds who eventually participated. Will we be able to do that after the referendum in order to find out how successful we were at promoting participation among that age group?

Gordon Blair: That very much depends on what initiatives happen locally within each council area. West Lothian Council has some figures as a result of our democracy challenge initiative, in which once a year the communities youth team goes into secondary 6 classes and gets people registered. Last time, just over 500 registered through the democracy challenge and through stalls in the West Lothian civic centre in Livingston, the shopping centre and the local college. Those are people who would not otherwise have been registered through the canvass. I am talking about 2011 figures. There was a check-up following that, from the marked registers; in round terms, of those 500, about 45 per cent voted. It took a lot of resources so it is arguable, in the current climate, whether we can sustain that kind of manual analysis, never mind other authorities—

Patrick Harvie: In principle, such a sample is possible.

Gordon Blair: It is possible, but it must be resourced and I suspect that the measure would not necessarily be widespread throughout the country.

Patrick Harvie: That was very helpful. Thank you.

Annabelle Ewing: I will pick up on a couple of points on the evidence thus far. First, I will make an information point for the record. My recollection—which may also be a bit hazy—of the 1997 referendum is that the count immediately followed the close of the poll. You seem to suggest that when you consider the capacity of polling stations your officers make assumptions about the organisation of the poll locally for each election based on what you have anticipated turnout will be. I presume that those assumptions therefore differ from one part of the country to the
next—which is the nature of assumptions—as opposed to a specific standard being pursued. Will you provide more information about what you were saying earlier and explain a wee bit more about how you make those assumptions, what their basis is and whether capacity for recent elections has been in excess of the turnout that was achieved?

Gordon Blair: We estimate turnout for each election and—of course—turnout varies. For example, in West Lothian, turnout was 62 per cent for the previous United Kingdom parliamentary elections, 54 per cent for the Scottish Parliament elections and 42 per cent for the council elections.

A combined poll increases the number of stations. That is nothing to do with turnout; rather, it is because there are more ballot papers. That is the first thing that we look at. We then look at the experience of and feedback from presiding officers—they give their views on the polling stations after each election. We can see whether there are any particular areas where we would need to adjust the number of stations for future elections because of any local variations in our electoral area.

The bottom line—the objective—is that we need to avoid queuing at peak times. In my experience, we have never had excessive queuing in any of our areas, and I think that is generally the case in Scotland. The chief counting officer came out with a direction for the AV referendum in 2011 that there would be a maximum of 2,500 electors allocated to stations. The figures that we run with in Scotland are well below that. That is the analysis that we do, but there is a built-in safety margin because, at the end of the day, the bottom line is that you cannot afford to have queuing. The pre-planning takes care of that.

Annabelle Ewing: That is very helpful. I have a minor follow-on question. An element to be factored into the capacity issue is the addition of 16 and 17-year-olds to the register. With regard to the overall anticipated maximum figure that that could entail, do you anticipate a queuing issue for any individual polling place? I imagine that there would be a reasonable spread of voter numbers throughout the length and breadth of Scotland.

Gordon Blair: The assessment—which has still to be made—will ask what will be the effect of 16 and 17-year-olds arriving at the polling station, asking questions and slowing down throughput. My guess is that we will need to factor in some increased capacity at polling stations. As I have said, that will not be only for 16 and 17-year-olds, but for older voters. There are two ways to deal with people’s questions while maintaining throughput of voters—by increasing the number of stations, and by increasing the number of polling staff without increasing the number of stations.

Annabelle Ewing: Obviously, there is nothing new under the sun—you have experience with new voters. If one looks back at certain recent elections, when there was a plethora of elections on the same day, you have had experience of providing complex information and so forth. I imagine that where there is a will, there is a way to secure the objective of ensuring that the poll meets the aspirations of the people.

Gordon Blair: I will make a quick addition to that point. The guidance that we would anticipate coming from the Electoral Commission on how to train polling staff will give a consistent message across polling stations. That will assist in terms of the speed with which questions are answered and throughput. All those factors come together to deal with potential queuing.

10:45

Annabel Goldie: Before we leave that issue, I point out that the referendum will not be like normal elections, in that there will be only one bit of paper with one question on it. I am interested in what people will ask you. I know what I would like to tell them, but I am interested in what they will ask you. [Laughter.]

Gordon Blair: In my experience, polling staff can be asked anything under the sun. Are you asking what voters will ask at polling stations?

Annabel Goldie: Yes. We are not talking about a normal general or Scottish Parliament election involving screeds of political parties and individual candidates; there will be just one question with two boxes.

Gordon Blair: When we come to the guidance on doubtful voters—I meant doubtful ballot papers; that was a Freudian slip—we can see there being some variations in what voters put down. They might write “Yes” and “No” in the boxes rather than tick a box. There are questions that we anticipate that people will ask. The polling staff will have to have a script, as they have had previously, in order that they can remain impartial and answer—or decline to answer—some of the questions that are asked.

Annabel Goldie is absolutely right: it will be a straightforward ballot paper. In theory, it will be about as simple a ballot paper as we could have.

Annabel Goldie: The other thing that I do not know is whether the count of the ballot papers will be manual. Will that be the case?

Gordon Blair: Yes.

Annabel Goldie: That is very reassuring.

In an ideal world, what period of time would you like there to be between the legislation that will
change the franchise coming into force and the date of the poll?

Gordon Blair: I can answer that as someone who is not involved in the registration side. I think that the committee has heard from Brian Byrne and Joan Hewton from the Scottish Assessors Association. The basic rule is the six-month rule for legislation, which comes from the Gould recommendation. If that is followed, that is as good as we can expect. We would be happy with that.

Annabel Goldie: If we overlay that with the possibility of the application of individual voter registration and all the current uncertainties about the timetable for that, does that introduce a fairly major factor?

Gordon Blair: Yes. I read the Official Report of the meeting at which Brian Byrne and Joan Hewton gave evidence to the committee at the end of last month, and I think that that factor needs to be bottomed out, not least because they and their colleagues will have to produce the new register and the young persons register.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Good morning, Mr Blair.

I would like to follow up on that. We have been asked to curtail, to an extent, the process that we would normally go through in considering a bill, in order to give electoral registration officers the maximum amount of time prior to the canvass that will take place in the autumn. I presume that you and your colleagues are anticipating and working towards that. How much anticipatory work can you do at this stage? As a corollary, to what extent do you have to wait for us to get the legislation through?

Gordon Blair: You are absolutely right. Everyone is anticipating the legislation. We are also anticipating the European Parliament ballot. I wish that we knew the date of that—I presume that Brussels will provide that information. We know that it will take place in June 2014, we know that the referendum will take place in the autumn of 2014 and we know that the UK general election will take place on the first Thursday in May in 2015. All three polls come together—they are back-to-back polls. If you work it out, you find that there are fewer than 12 months between them, from start to finish. That affects our pre-planning. We are already beginning to think about our polling schemes, because different questions will be asked in the different polls. The EMB will undoubtedly be starting to think about that as well. We are anticipating and beginning to plan for the strategic issues nationally and locally.

Patricia Ferguson: Many of us would like to know the date of the referendum. Is the uncertainty about that an additional hurdle for you and your colleagues?

Gordon Blair: It is probably more of an uncertainty for the registration side. We know that it will be in autumn. To be honest, it is not holding us back from proceeding with the major building blocks, which are the polling scheme, the information technology systems—not registration IT systems, but those on the returning officer side—and whether we need to renew the staffing profile. We can do all the significant major building blocks at this point in time. Obviously, we want the detail at least six months before polling day.

Patricia Ferguson: Is there anything that you cannot anticipate that you need to know to allow you to work ahead?

Gordon Blair: I cannot think of anything off the top of my head. I hope that we can anticipate most eventualities and have a good guess as to what is likely to happen.

Representatives from the Electoral Commission, the Scottish Government and the Scotland Office are advisers to the EMB, so it is up to speed with trends and what is being talked about here in Edinburgh and down in London, with regard to the UK parliamentary election. The EMB can see what is coming over the horizon, get its own plans into shape and assist us locally. I happen to be an adviser to the EMB, but I am not here today as a representative of it.

The Convener: As nobody else is indicating that they want to ask a question, I thank you for coming along and giving us some very useful evidence in such a cogent and clear manner. It was very helpful to us. Thank you also for taking questions that went beyond what we had asked you to talk about. I am very grateful to you for taking a wider range of questions than perhaps you expected.

Agenda item 2 is our approach to scrutiny of the proposed referendum franchise (Scotland) bill at stage 1. We have a paper in which the clerk has laid out various details. On the draft call for evidence, there is a suggested deadline of 22 March. The Deputy First Minister is coming on 28 March. It is proposed that those who are unable to meet the 22 March deadline are given a fall-back deadline of 12 April, to ensure that we gather all possible evidence. Of course, if any evidence comes in later, we could write to the Deputy First Minister to ask for her response.

The paper also suggests an overview of witnesses from whom the committee might take evidence. There are three dates: 14, 21 and 28 March. There is a small error in the paper, about which members were notified by email last night. The Scotland office of the Information Commissioner's Office, rather than the Scottish
Information Commissioner, deals with data protection.

I seek members’ views on what is laid out in the paper.

Linda Fabiani (East Kilbride) (SNP): It is important that we get young people’s views on the bill. I am glad that a session with the Scottish Youth Parliament and the National Union of Students Scotland has been suggested, but I am not convinced that we should have Scotland’s Commissioner for Children and Young People on the same panel, as I think that we should give the young folks the opportunity to speak for themselves.

I suggest that we also pull in Young Scot. From what I have seen, it is very representative of young people across the spectrum in many ways, and it works in all local authority areas. I would like to see Young Scot in there somewhere, too.

The Convener: Tell us a bit more about Young Scot.

Linda Fabiani: Young Scot represents young people across Scotland. It is also highly respected by youth organisations and so on. From what I can see, it is pretty well informed on lots of issues. I think that it would be a missed opportunity not to have it along. I visualise the panel of young people being one of young people’s voices. I have nothing against the Commissioner for Children and Young People, but I think that we should have a panel that has young people themselves speaking to us.

The Convener: Okay. Let me canvass views. Stewart Maxwell wants to comment, as does Patrick Harvie.

Stewart Maxwell: I do not have a problem with Linda Fabiani’s suggestion. It is quite sensible to have all the young people on the panel together. I mean no offence to Mr Baillie, the children’s commissioner, but young people should speak for themselves on the panel.

My point is about other possible witnesses. Frankly, I think that, because of overlap, we could take at least two together: specifically, the Information Commissioner’s Office for Scotland and the chair of the Scottish child protection committee chairs forum. I think that there is an overlap there in terms of some of the data protection stuff and so on that we will be talking about. We will be asking both of them similar questions. I know that there will be slight differences, but there will still be quite an overlap.

It seems sensible to me to have both on the same panel rather than have separate panels. In addition—I had not thought about this until Linda Fabiani referred to it—if we are talking about child protection and issues that are similar to that, the Commissioner for Children and Young People should probably be on that panel.

That would mean that there would be a young people’s panel and then a panel of commissioners and others.

The Convener: I do not know about other members, but I think that that is quite wise.

Stewart Maxwell: Thank you very much, convener.

Patrick Harvie: On the relationship between promoting legislation and participation and what role schools in particular might have, I wonder whether there is sense in trying to have some space to hear from heads of education and local authorities or other witnesses from whom we would get a similar perspective. I imagine that when we come to considering the referendum bill, we will want to hear from the campaigns on both sides. I am not sure that it is necessary to think about whether there are groups that represent young people that will be campaigning for or against and which will want to give evidence on the franchise bill. However, I certainly think that we need to address the question of the specific role of schools in promoting not just registration but participation.

The Convener: If I remember correctly, there is an organisation that represents directors of education, but I cannot remember what it is called.

Stewart Maxwell: It is the Association of Directors of Education in Scotland—ADES.

The Convener: That is an umbrella organisation that could come and give us some evidence. If we are going to bring it in, we should perhaps slot it alongside an organisation such as the Electoral Commission, because that would cover participation and encouragement.

Annabel Goldie: Patrick Harvie pre-empted me and covered the point that I was going to raise. I thought that we needed more oral evidence, and I jotted down that perhaps we could get the heads of education from two of the biggest local authorities. However, I think that that has been covered.

The two bodies that I definitely want to hear from are the Electoral Commission and the Electoral Management Board for Scotland. However, I honestly think that if we stray beyond having two panels to give evidence, we will begin to lose the sharpness and focus of interrogation and response. I do not know what the rest of the committee feels about that, but my desire would
be to try to rest with two panels per meeting. If that caused pressure, I would suggest that the Electoral Reform Society, for example, could be asked to give written evidence.

**The Convener:** There is only one panel on the day that Deputy First Minister is coming, unless we add somebody else.

**Annabel Goldie:** I know that we will have the chair of the Scottish child protection committee chairs forum, but I wondered whether we could bulk that panel out a little with the heads of social work in Scotland body, which is rather like the body that Stewart Maxwell referred to. I think that it would be helpful for the committee to have some evidence from the people who work with fragile, vulnerable youngsters and who are at the coalface of trying to protect them.

**The Convener:** It has already been suggested that we have the chair of the Scottish child protection committee forum.

**Annabel Goldie:** Yes, but that is a global or composite organisation. However, it was just a suggestion.

**The Convener:** We have three dates. The first date is 14 March. Given what we heard from Linda Fabiani and the reaction to that, perhaps we should have the Youth Parliament, the NUS and Young Scot as one panel on 14 March. That gives us quite a significant space just for young people on that day.

The meeting on 21 March will be almost like a commissioners day. Stewart Maxwell suggested that the Information Commissioner’s Office, the child protection folk and the children’s commissioner could all come on the same day.

**Stewart Maxwell:** I suggested that they should all be on the same panel.

11:00

**The Convener:** So we would deal with one panel on one day and get all those bodies together at once.

**Annabelle Ewing:** We could have two panels on the same morning—that would be doable. We could have the young people on one panel and then the commissioners on the next panel on the same day, dealing with issues from their perspective. You would have the young people’s perspective on issues to do with young people—

**The Convener:** Right. So that would all be on 14 March. Then on 21 March we will have the Electoral Commission and perhaps ADES on one panel. On another panel on the same day we will have the Electoral Management Board, the Scottish Assessors Association and the Association of Electoral Administrators, all of which are listed in the note by the clerk.

That leaves 28 March. We could potentially have a panel with the Electoral Reform Society—I will come back to Annabel Goldie’s point about the social work side of things. On the same day, we will take evidence from the Deputy First Minister.

**Tavish Scott:** Just to help you, convener—the Electoral Reform Society won. It got what it wanted. Annabel Goldie’s point about allowing it to give written evidence is a good idea. That would deal with the problem of a panel on the same day as the Deputy First Minister, who would not then get the chance to review the evidence from that panel. I was a bit puzzled about why the Electoral Reform Society wants to come in to give evidence. It can give written evidence.

**The Convener:** It is not just about the issue of 16 and 17-year-olds policy though, is it? It is about the wider issues of engagement and participation.

**Tavish Scott:** So the question is: what would the Electoral Reform Society add that we would not get from the other panels?

**The Convener:** I am not going to die in a ditch over this one.

**Tavish Scott:** I was trying to help.

**The Convener:** If there is a general feeling that we do not require the Electoral Reform Society, that is fair enough.

**James Kelly:** We could take written evidence from it.

**The Convener:** Yes.

ADES—a body that encapsulates all the directors of education—will come to give evidence. Further to Annabel Goldie’s point about the social work side of things, we can make a similar invitation to the body that represents social work in Scotland. That body should, by its nature, sit alongside the chair of the Scottish child protection committee chairs forum on a panel. I will leave the clerks to work out all the timings and the synergy to make sure that it all works. Is that reasonable?

**Members indicated agreement.**

**Annabelle Ewing:** Please excuse me if we already have this information, but the note by the clerk states that the call for written evidence will be flagged up to the media and to stakeholders. I do not know who those stakeholders are. Could I get a list of them? Do we have a list? When the paper references stakeholders, to whom is it referring?

**Andrew Mylne (Clerk):** In this context, all we are envisaging is a general call for evidence through the normal Parliament channels—our media office draws the call for evidence to the
attention of the media generally. I am not necessarily thinking of targeting the call for evidence, but if members have suggestions—

**Annabelle Ewing:** It is just that the paper refers to media contacts and stakeholders—I just wondered who the stakeholders were.

**Andrew Mylne:** We will draw the call for evidence to the attention of those who we think are obvious. If members have suggestions of particular stakeholders, we are happy to take those suggestions.

**Annabelle Ewing:** I am just interested in seeing the list, if that is possible.

**Tavish Scott:** There is no list.

**Annabelle Ewing:** Presumably there will be at some point, in order to be able to send the information about the call for evidence to stakeholders.

**Tavish Scott:** There is no conspiracy.

**Annabelle Ewing:** I am fine; I was just curious to see who was involved—that is all.

**The Convener:** If a member wants to see who gets the information, they can see that. That is a reasonable request.

Next week, we have an informal briefing from Scottish Government officials on the franchise bill. That might widen out to other issues, considering what we have heard today. We should try to limit our discussion to the franchise bill, because that is what we have asked them to come to speak to us about.

We had a general discussion about having a meeting on 7 March. We decided to have a meeting then to agree the themes for the oral evidence-taking sessions at stage 1 of the franchise bill, which will begin shortly. I suggest that we take that meeting in private because we will be freewheeling a bit around what we want to ask. On 28 February, we have an informal briefing. Therefore the next meeting of the committee will be in private on 7 March, to be followed by a meeting on Thursday 14 March, when we will take stage 1 oral evidence on the franchise bill.

*Meeting closed at 11:05.*
Scottish Independence Referendum (Franchise) Bill: Stage 1

09:31

The Convener: With that small matter out of the way, I warmly welcome our witnesses. It is great to see you here and we are grateful to you for coming along to give evidence on the Scottish Independence Referendum (Franchise) Bill, which is before the Scottish Parliament.

I welcome Andrew Deans and Emily Shaw, who are members of the Scottish Youth Parliament; Robin Parker, who is the president of the National Union of Students Scotland; and David McNeill, who is the entitlements and rewards director—that sounds like a great job—at Young Scot. I understand that no one wants to make an opening statement. That is grand; we will bash on.

I will start proceedings by asking a general question about the bill’s principles. We need to put on the record evidence about what people think of the bill’s principles and of extending the franchise for the referendum to 16 and 17-year-olds. Does anyone want to kick off on that? Robin Parker looks pretty keen.

Robin Parker (National Union of Students Scotland): I am happy to start. NUS Scotland, alongside the NUS in the United Kingdom, has for a long time supported the principle of votes at 16. It is extremely positive that the Scottish Government and the Westminster Government have agreed that we can extend the franchise for the referendum to 16 and 17-year-olds. Does anyone want to kick off on that? Robin Parker looks pretty keen.

Emily Shaw (Scottish Youth Parliament): The Scottish Youth Parliament has campaigned for votes at 16 for more than a decade. We are really in favour of that. It is fantastic to see the principle being taken forward in the bill.

Sixteen and 17-year-olds can be just as informed as over-18s are, and it is important that they have a voice, so we welcome the bill. Our 2009 national campaign was on votes at 16, and we are a member of the steering group of the votes at 16 coalition. We have been involved in the subject for quite a long time.

David McNeill (Young Scot): I echo those comments. Young Scot welcomes the bill and the opportunity for young people who are aged 16 and 17 to vote.
The Convener: Was the Youth Parliament’s position unanimous? Was the issue discussed? What was the lie of the land?

Andrew Deans (Scottish Youth Parliament): Both times that the issue was selected for a national campaign—in 2009 and 2011—it was MSYPs who chose it. The subject also features in our “Change the Picture” manifesto, which resulted from a big consultation with young people. We got 42,804 consultation responses from young people, who told us that voting at 16 was one of their key issues and that they very much supported that. I think that the principle has young people’s backing.

Tavish Scott (Shetland Islands) (LD): What do our young MSPs of the future envisage for participation? Will the Scottish Youth Parliament’s role in the next year or so be to encourage participation? If so, how will it do that?

Emily Shaw: Most important for us is that everybody needs to get behind encouraging 16 and 17-year-olds to vote, and I expect that several different groups and organisations will encourage them to do that. The Scottish Youth Parliament would love to be as involved as possible. We have a couple of propositions about how the wording of any information that goes out can be made youth friendly. We would love to see those considered.

Andrew Deans: Awareness raising is definitely necessary. I am sure that that will be fairly high on the agenda for young people and the rest of society when we get near the referendum. It is necessary to ensure that impartial information goes out to young people about the fact that they have the right to vote and about how they can register and vote. We have a role to play in that, as do the other bodies here. The campaigns and the Scottish Government have a role in ensuring that clear, accessible and plain English information goes out to young people and in raising their awareness of their right to participate in the referendum and how they can do that.

Tavish Scott: Have the Electoral Commission and the other bodies that are there to encourage the whole principle of participation asked the Youth Parliament or, indeed, the NUS and Young Scot to help with that? Perhaps it is too early for that.

Robin Parker: We have certainly been in discussion with the Electoral Commission. We are agreed that we will carry on talking to each other. The idea of a well-resourced registration and information campaign is crucial. There is a lot of work for us all to do across the board but particularly with young people between now and the referendum to provide impartial and independent information and ensure that we take 16 and 17-year-olds in particular through the registration process.

Stuart McMillan (West Scotland) (SNP): I want to go back a step. The question has been posed about the support for voting at 16. Was there much debate or campaigning against voting at 16 and 17 in the individual organisations that you represent?

Robin Parker: There has been a series of debates at conferences both in Scotland and elsewhere in the UK about the vote for 16-year-olds. Some people are against it, but the overwhelming majority in all stages have been in favour of it. It is very positive that the NUS at UK level and the rest of the votes at 16 coalition and organisations such as the British Youth Council played a strong role in the run-up to the Westminster Parliament’s vote on votes at 16. We welcome the fact that the Westminster Parliament voted in favour of the principle of votes at 16. Anything that any of the members can do to encourage their UK colleagues to keep the wheels in motion would be very welcome.

Andrew Deans: That is right. I do not think that anything ever gets unanimous support in the Youth Parliament—as with other Parliaments, it is difficult to command 100 per cent of the vote. Votes at 16 is one of the less controversial issues among young people. There is the feeling that that is the appropriate age for the franchise. We work with 16 and 17-year-olds all the time, and we see that they are very much ready to vote. The votes at 16 coalition shows that there is broad support among youth organisations across the country for that.

David McNeill: We do not take positions on issues; we encourage and support young people to have their own views. However, we are willing to support votes at 16 because the feedback from other organisations and young people is that it is such an important issue.

Stuart McMillan: To recap, an overwhelming majority favour votes at 16 and it is one of the less controversial issues. It is encouraging that young people want to vote.

The Convener: Linda, would you like to move on to the wider awareness issues?

Linda Fabiani (East Kilbride) (SNP): Aye, but first I want to ask Robin Parker a specific question—I will put him on the spot. On page 2 of NUS Scotland’s submission, concern was expressed about what, at the time, was thought might just be a partial extension of the franchise. That was identified as an issue that we had to be acutely aware of. Now that you have followed the process through and we are where we are, how do you feel that that has been addressed?
Robin Parker: We think that, as far as possible, the proposal that is on the table provides a solution. We were particularly concerned about a previous suggestion to do with the use of attainers, which I think is mentioned in the Scottish Parliament information centre briefing as an alternative approach. The proposed approach is certainly better than that. It creates the opportunity for all 16 and 17-year-olds to register, which just has to be turned into a reality through awareness raising and supporting people through the registration process.

Linda Fabiani: Thanks.

I would like to hear all the panellists’ views on how best to move forward with awareness raising. We all have responsibilities in that regard. What practical things could be done to ensure that young people are aware of registration? Beyond that, how do we encourage young people to use the franchise and use their vote? How do you see that being done by your respective organisations? How can you best reach those who might not be aware of the Youth Parliament, who are not students or who do not tap into the Young Scot services?

David McNeill: Around half a million young people in Scotland are Young Scot national entitlement card holders, including around 80 per cent of the population who are 13, 14 or 15 and likely to be eligible to vote. We have a range of direct communication channels with card holders, including magazines that have a high reach. Across all our communication channels with young people, we will reinforce the message that they should get registered to vote and that they should use the right to vote in the referendum.

Robin Parker: There are a few things that we would like to see. We would like some kind of organisation, coalition or unit to be set up that can deliver awareness raising independently. That is extremely important.

Other things that will be important include the provision of clear guidance to schools on how the arrangements will work. It is important that people have the opportunity to ask questions of those who run the campaigns and of politicians, but we would not want to see an approach that involved a strong open-door campaign in schools.

We are keen on the adoption of a peer-led approach, which we think will be crucial. It is important that we give young people the opportunity to be involved in peer-to-peer education at school level and in other educational organisations. Similarly, the provision of clear guidance for charities and student associations, in particular, on what they can and cannot do in relation to the referendum would be welcome.

Everyone seems to be clear in the view that there will be a very high turnout for the referendum, particularly in comparison with the turnouts for some recent elections. Therefore, it is important that the Parliament and the Government ensure that electoral registration officers have enough resource and enough polling stations. At the 2010 election, there were situations in which students were left queueing to vote for a very long time. If there is to be a high turnout, we do not want such situations to be repeated. We are very interested in having polling stations in community locations and universities and colleges, in particular. In the context of 17-year-olds who go away to university and who stay in a hall of residence, measures such as having polling stations in halls of residence or in university buildings nearby are extremely important.

Emily Shaw: We reached over 42,000 young people with just our consultation, so it is possible to reach young people through, for example, social media and engagement with youth clubs and schools. It is important to ensure that there is clear guidance in schools and that it is not restricted just to modern studies classes, for example—the information must be distributed across the school.

Another idea that we would like some clarification on is about the registration forms. Ideally, we would like to see them distributed in schools, youth clubs and other such venues. I think that that would be a fantastic way in which to engage young people practically and get them to register. However, we would of course look to you guys to clarify that a little bit.

Linda Fabiani: Thanks for that. I think that my colleagues intend to pick up on some of those points.

The Convener: Do you have any further points, Andrew?

Andrew Deans: Just a little one about an opportunity to raise awareness and increase engagement. We know from hearing from young people that democracy and citizenship education in schools varies across the country. It is good in some places but not in others, which is perhaps because there are no subject specialist teachers in some schools. Given that current 14 and 15-year-olds will have the opportunity to vote in the referendum, this is a chance for us to consider how we can improve democracy and citizenship education in schools and equip young voters for making their decisions.

Annabel Goldie (West Scotland) (Con): Good morning, panel. You all look very young to me, but you do not look so young as to be still at school. I am interested in Emily Shaw’s point about raising
awareness. I fully understand the importance of that but, at the same time, young people at school are going to be preoccupied with important issues, particularly in April, May and June next year. Do you think that a balance has to be struck between trying to give information to young people in schools and trying not to distract them from what they seek to achieve in school?

Emily Shaw: Yes, definitely. At the moment, time is already set aside for personal and social education lessons, for example, but I think that such time could be used more effectively in quite a lot of schools. As I said, materials could also be provided online. I think that the use of the internet is underestimated slightly, given that so many young people have access to it across the country. I agree that there has to be a balance to ensure that schoolwork gets done in schools but, at the same time, the referendum is potentially a once-in-a-lifetime opportunity for young people to have their say on the future of Scotland. As you said, a balance should be struck.

Robin Parker: Could I make a broader comment about what the purpose of education is? For me, the purpose of education at all levels is about setting people up to be successful citizens of the country in the wider sense, which very much includes things such as voting. Education and the kind of thing that we are talking about here go hand in hand—they are very much the same thing.

Annabel Goldie: People still have to pass exams.

Robin Parker: Sure. There is clearly a need for some balance, but the two areas create a strong synthesis. For example, with regard to how modern studies is taught, I was engaged most as a student when what was taught was connected directly to the world and what was happening around us. There is no better opportunity to make that kind of connection in many school subjects than our current discussion about what the future of Scotland will be. Wherever people sit on the issue of the constitution, there is an opportunity to tie it into a wider discussion about the future of Scotland.

Patrick Harvie (Glasgow) (Green): Good morning. I am a strong supporter of the principle of votes at 16. However, as the NUS noted in its written evidence, we have heard from Jersey, Guernsey and the Isle of Man, which have had different results from reducing the voting age to 16. If we do the same for the referendum but get, say, only 10 per cent of 16 and 17-year-olds voting, it seems to me that that will harm the argument for extending the right to vote at 16 to all elections—it will be worse than not trying to extend it. Surely the objective must be to get a strong turnout not only to advance the argument for votes at 16 for other elections but to build a strong habit of voting for young people who will vote in subsequent elections when they are 18, 19 or 20.

You have all said that you want clear guidance about what schools can do, but the differing results of the other jurisdictions that we heard about seem to have been partly caused by the differences in the activity that took place where young people are. What should the clear guidance say? What is appropriate activity to be taking place in schools and what would cross the line into inappropriateness? It should be borne in mind that some 16 and 17-year-olds will be campaigners and activists—on both sides—and will, we hope, be motivated by the referendum.

Robin Parker: The kind of things that I would like to see on a strong scale include making it clear in what way that can be done as part of lessons. I also go back to the peer approach and opportunities for students to teach each other about the issues. Those kinds of things would be good. There must also be opportunities to ask questions of the politicians and, more importantly, the campaigns, but the peer-led approach must be fundamental. We have found hesitation among schools because there is no clear guidance. Schools might or might not like to do things, but there is a bit of uncertainty and that leads them to hold back from things that all of us around the table agree would be great.

Patrick Harvie: That is already the case. Some schools have a good habit of holding question-and-answer panels or mock hustings, while other schools seem to think that they are not allowed to do that. Should we expect local authorities to provide that kind of activity in schools?

Robin Parker: In our written evidence, we suggest extending the duty on the Society of Local Authority Lawyers and Administrators in Scotland to promote elections to promoting the referendum to 16 and 17-year-olds.

I return to the fundamental point at the start of your question. If there is a low turnout among 16 and 17-year-olds in the referendum, it will not be because of a lack of interest in the issue or because 16 and 17-year-olds do not want to vote; it will be because we have all failed to provide them with the information, awareness and ability to vote.

David McNeill: On the difference in participation, there is an interesting comparison with the Scottish Youth Parliament elections, which are currently going on. We are supporting the Scottish Youth Parliament with online voting for around half the local authorities in Scotland. The message from the current elections and the elections in 2011, for which we also used e-voting, is the importance of the work that goes on in local authorities and, particularly, in schools to create a
buzz around the election and to enable young people to understand the importance of voting. Participation goes up to 90 per cent in some schools, but it is less than 5 per cent in places where young people are expected just to vote without any encouragement or support.

It does not matter what mechanism is used—whether online or offline voting. That does not make as big a difference, as it is only 5 per cent of the process. Ninety-five per cent of the process is the work that goes on in schools and through community learning and development to encourage turnout and to convey the importance of young people exercising their right to vote.

**Andrew Deans:** The good thing about the referendum is that there will already be that buzz; it is just about ensuring that young people have equal access to all points of view. There must be a balance in that. We do not want to scare schools off doing such activities, but there must be equal access and we must ensure that it is fair. Schools and local authorities should very much be encouraged to hold events such as Q and As and debates as long as they are always mindful of ensuring equal access. If they are, it can only be a good thing that young people are being engaged by the campaigns and are getting the opportunity to ask their questions and think about the issues.

**Patrick Harvie:** I would not suggest this as an amendment to the bill, as I am not sure that it should be on the face of the bill. However, do you agree with the idea that the Government, local authorities, schools, political parties and the campaigns should commit in principle to an aspirational target of getting at least 50 per cent of 16 and 17-year-olds voting in the referendum? That would be higher than the turnout of 18, 19 and 20-year-olds in most elections. Should we set that as an aspirational goal?

**Robin Parker:** I am happy to have a think about that, definitely.

**Emily Shaw:** We believe that the fact that 16 and 17-year-olds will be able to vote is the real success—whatever the turnout is. Turnout should not be used as a gauge of failure or success. We have already won, because 16 and 17-year-olds can vote. There are things to be done to facilitate the vote and registration, but we should not measure the success of the referendum on how many 16 and 17-year-olds we get to turn out.

**Robin Parker:** There is quite a strong argument for saying that it is not just about 16 and 17-year-olds; there should be a big commitment to have a strong turnout across the board for people of all ages. That would benefit all sides of the debate.

**Patrick Harvie:** Thank you.
are not politicians and come from different walks of life. Does it strike you as important that that should be made very plain in any guidance that is put out, so that education authorities and schools do not feel that they are being politically pressured? This is a people’s campaign: it is not necessarily a politicians’ campaign. What are your views on that?

Robin Parker: Bearing in mind my current audience, I must say that experience elsewhere has shown that politicians may not be best placed to do some of this. I emphasise the peer approach. Young people talking to other young people will be most effective.

Emily Shaw: There are student representative councils and local youth councils, and youth representatives are extremely important as well. There are not just politicians to turn to.

10:00

Tavish Scott: I want to be clear that there is a difference—which I ask you to think about and comment on—between the provision of information and interfering with teaching. I am not encouraging you to agree with the proposition that we should interfere with teaching at the local level. With regard to the referendum, in my part of the world there will be views on oil, for example, which will be rather different from the views of both national campaigns. Do you agree that there is an important distinction between the provision of information and interfering with teaching at the local level? With regard to the referendum, in my part of the world there will be views on oil, for example, which will be rather different from the views of both national campaigns. Do you agree that there is an important distinction between the might of the state coming in on top of this issue, as opposed to the provision of information to—[Interruption.] Do you see how the SNP members react to that? Do you see my point? That is how they react to it, and that is what is going to go on.

I am not for the politicisation of the debate in our classrooms. As Robin Parker rightly said, people should have information that allows them to participate in the debate and be good citizens for the future, but they should not be provided with information that is clearly political. It is up to people to make up their own minds, and we should not interfere with teachers and how they teach in our classrooms. Do you agree?

Robin Parker: In general, that is the best approach to teaching.

Tavish Scott: Thank you.

Robin Parker: Teaching is not a kind of brainwashing.

Tavish Scott: No; exactly.

Robin Parker: It is a facilitation of education.

Tavish Scott: Indeed.

Robin Parker: That is what teaching is. In my experience, the vast majority of young people are more than capable of pulling people up when they see through information that they do not agree with. They will take on those debates.

I emphasise that when I am talking about an independent organisation, campaign or whatever, it needs to be independent of the political scene—it needs to be independent of politicians and Government.

Tavish Scott: Absolutely—it needs to be independent of Government as well.

Annabelle Ewing (Mid Scotland and Fife): Good morning, everybody, and thank you for coming. I have three quick points. Regarding the discussion that we have just had, it has to be said that there is debate in schools at the moment, such as in the school I was at last Friday. People go into schools in so-called peacetime and during election campaigns. That has been managed reasonably well to date and there have been no major concerns about it. I am sure that all of us around the table have participated in such visits, including Mr Scott.

I have a technical point with regard to communication. I am perhaps not the best person to ask this question—some of my colleagues would regard me as a bit of a Luddite—but it occurs to me that one way to use the latest technology would be to have an indyref registration information app. Would that help to raise awareness of registration?

Emily Shaw: Yes—fantastic. That would be brilliant. My university just got a fantastic app for its blackboard service.

David McNeill: There is a bigger point, in that the bill talks about the household canvass. Before we came into the meeting, my colleagues from the Scottish Youth Parliament and I discussed whether individual registration would be more empowering, as it would give more young people ownership of the process. It is worth exploring whether it would be possible to have some kind of online registration and encourage young people to register themselves, rather than leaving it up to someone in their household. Young people engage with doing things online, as do older people. That would be worth exploring.

Robin Parker: I will pick up on that, although not so much to answer the question. At the moment, the Westminster Government is introducing proposals that will radically alter the voter registration process immediately before the referendum takes place. We would like the Westminster Government to delay those proposals for some time, so that the two things do not become conflated and become a bit of a mess. We would be happy to work with the committee as a whole or its members to lobby the Westminster Government on that issue.
The Convener: We are acutely aware of the issue and have taken a fair bit of evidence on it already. We are hopeful that a sensible solution can be arrived at and are keeping a close eye on the negotiations that are currently going on between the Scottish Government and the UK Government. If things do not go as well as we hope, we might come back looking for your help.

Annabelle Ewing: Earlier, we discussed the principle of lowering the voting age. Some would take the view that, if we cannot lower the voting age for all elections, there is no point doing it for the referendum. What is your response to that?

Robin Parker: We would very much like the voting age to be reduced to 16 for all elections across the UK. Indeed, I think that there are discussions taking place at the European level about votes at 16. Westminster has now voted in favour of the proposal, and we would like it to take further steps towards implementing it across the UK.

To answer your question, there is an acknowledgment that the referendum is a one-off opportunity to discuss and set out Scotland’s future, so I think that it is a reasonable place to start. However, I would like a commitment from politicians of all parties that this is only a starting point and that the lowering of the voting age will apply in other elections.

The Convener: We will now move on to deal with registration issues.

James Kelly (Rutherglen) (Lab): We have had quite a wide-ranging discussion of the issues around registration. Registration is important, because people have to be registered in the first place if they are going to be able to participate in the referendum. You have all given some good practical examples of how you can improve registration rates—David McNeill spoke about his contacts in Young Scot; Robin Parker has contacts in the student community; Emily Shaw spoke about getting the forms out into youth clubs and youth organisations; and we discussed a possible indyref app.

Do you support a strong role for the Electoral Commission and individual local authorities, with proper resources behind them, which could work closely with you in order to provide you with the techniques and resources that you need in order to roll the registration methods out across the youth community?

Robin Parker: They key phrase that we use in our evidence is “well resourced”. If registration is not well resourced, we will not turn the opportunity for 16 and 17-year-olds to vote into the ability to do so.

James Kelly: I assume that you are looking for strong leadership and guidance in rolling out the techniques.

Robin Parker: I think that we should make it clear where responsibility lies. That is why it is right to extend the duty to the local authority administrators and make it clear that there is a coalition of organisations that have responsibility for registration. Those things will deliver independent leadership, as long as the necessary resources are in place.

David McNeill: Young Scot would be keen to support the registration process in any way, whether that involves simply communicating the process to young people or bringing to bear the expertise that we and our partners in the Improvement Service have in registering young people for the Young Scot national entitlement card and online registration—that expertise is a considerable public sector asset. We could also possibly produce an app.

Andrew Deans: I echo the rest of the panel's comments about the need for leadership from local authorities, which must make it a priority to ensure that young people know how to register and are able to do so.

Coming back to David McNeill’s point about the household canvass versus rolling registration, I think that the mindset seems to be that the former would be the preferred option and that rolling registration would be used as a secondary, mop-up method. The approach has its disadvantages as well as its advantages. For a start, attainers are often missed out on the household canvass when it comes to electoral registration; sometimes parents do not realise that they can put them on the register and often young people do not know that the process is happening. As a result, we think that there might be some advantage in putting more emphasis on rolling registration, particularly with regard to 16 and 17-year-olds. If we can get rolling registration forms into schools and if schools take on some responsibility for ensuring that people are registered, we might well solve a lot of the problems of people getting missed in the household canvass.

We also seek clarity on what will happen if people get put on the wrong register or if there is duplicate registration because they are already on the household canvass. Our message to young people is that if they are in doubt about whether they are registered, they should ensure that they are by filling in a rolling registration form. However, at the same time, we do not want people to be penalised for unknowingly registering twice.

I also note that in the proposed canvass form for the young voters register all the references are to age; for example, it refers to a young person
“living at this address who”
is
“15 ... but will be 16 by”
the time of the referendum. However, we believe
that it would be easier to use dates of birth. The
form says:

“Please enter the names of 15 year olds living here who
will be 16 by [date of referendum]”
but everything will depend on when the person
gets round to filling out the household canvass. If
a person has a 16th birthday after 1 December,
they should be on the register of young voters, but
the canvass form might give the impression that
they should not be and using dates of birth makes
it a little bit clearer who is supposed to be on what
register.

It can be quite confusing; indeed, when the
proposals first came out, we had to look through
them a number of times to get straight in our
heads just who is supposed to be registered
where. We need to think about the issues, make
things as clear as possible for parents who are
filling in the household canvass and consider the
role of rolling registration, especially as so many
young people can be reached through it.

Robin Parker: I have to say that student
associations have had mixed experience of rolling
registration. Some electoral registration officers
have been very keen and enthusiastic about
holding rolling registration events on university and
college campuses, while others have been a bit
unsure about whether they should be doing those
things and about their responsibilities in that
respect. I am not sure whether that is a resource
or guidance issue but, as Andrew Deans said,
EROs need to be encouraged and given support
to hold rolling registration events in schools,
colleges and universities, because such things are
really positive.

Stewart Maxwell (West Scotland) (SNP):
David McNeill touched on the issue earlier and
Andrew Deans has now gone into it in a bit more
detail, but what are the panel’s feelings about
household registration, particularly with regard to
households where the adults decide that they do
not want to register and simply throw the form
away but where the young people themselves
want to be registered? Moreover, how do we deal
with those who, as Andrew Deans pointed out,
simply make a mistake and do not put people on
the form or put them on the wrong form? I do not
think that there will be any problem with duplicate
registration—the main thing is not to vote twice—
but how do we ensure that, irrespective of the
views of the adults in the household, 16 and 17-
year-olds get on the register? I know that you have
already given your views, Andrew, but do you
have anything else to add?

10:15
Andrew Deans: There will always be mistakes,
and there will always be adults who are not
interested in registering although the young people
are, or adults who miss the young people out—it
happens with attainers all the time. People do not
realise what they are supposed to do or that they
can put young people on the register. I think that
the answer to that is to emphasise rolling
registration more. That works particularly well for
16 and 17-year-olds; we know that the majority are
in schools or colleges, or engaged with youth work
services and similar activities. There is a huge
opportunity there.

It is empowering, too. There is a dual
responsibility: parents have a responsibility to fill in
the household canvass, but young people and
those engaging with them also have a
responsibility to ensure that they are on the
register. If double registration is not a problem, all
the better. We can put out the message that if
people are in doubt about whether they are
registered, they should ensure that they are, so
that we do not run into those problems. Using
rolling registration to its full advantage is a good
way of ensuring that 16 and 17-year-olds are
registered.

Robin Parker: I saw rolling registration at its
best when two people came from the electoral
registration office. They brought the register and
people were able to go up to them and say, “I’m
not sure if I’m registered”. They could flick through
the register and say, “You’re on here, it’s fine”, or,
“Fill this form in to get sorted, and either give it to
us just now or send it back to us”.

David McNeill: I echo Andrew Deans’s
comments that placing responsibility on the young
person to be registered may give that person a
greater sense of ownership of the process. It may
lead to a higher level of participation—although
there is no evidence of that—than happens when
a polling card just appears through the door.

Stewart Maxwell: Do you envisage that, in
practical terms, the initial household registration
would go ahead roughly as planned, with a follow-
up campaign, if you like, of rolling registration
trying to engage with people in the way that Robin
Parker mentioned—a mop-up exercise to ensure
that as many people as possible are on the
register?

Robin Parker: As Andrew Deans said, we need
to think of it not as a mop-up exercise, but as a
serious exercise.

David McNeill: I would like to ask young people
how they feel about either being registered as part
of the household or taking on the responsibility to
register themselves. It would be interesting to find
out the answer.
Stewart Maxwell: That applies to us all. Currently people register as households, even those of us who are over 16—by a year or two.

James Kelly: Thank you—we have heard some excellent and practical points in evidence.

As well as the importance of registration itself, it is important that people are registered in the correct place. One of the challenges, particularly in relation to students, is that if the poll takes place in autumn 2014, that will be early in the college or university year. A 16-year-old who has stayed all their life in Cambuslang may have registered there, but then may go to the University of St Andrews in September 2014. What can be done to ensure that we do not have blocks of students and 16 and 17-year-olds who end up disenfranchised because their place of education is different from where they are registered?

Robin Parker: First, as students we have the right—which is very important—to be registered at both a term-time and a home address. That helps with that issue; it emphasises a positive aspect of delaying the move to individual registration by the Westminster Government. One of the advantages of household registration for students is that that allows university halls of residence to block register everyone who stays in those halls. There is an important timing issue in terms of the urgency of doing that. On your example of someone moving from Cambuslang to St Andrews, students could still vote, as long as they had been properly registered while still at school in Cambuslang. They could then have a postal vote in Cambuslang, which is another way of doing it. That emphasises the importance of getting the registration right at home a long time in advance.

James Kelly: Yes. I suppose that, in practical terms, you are saying that, if individual registration is delayed, come September 2014, student halls of residence working with the electoral registration officers would be able to get the bulk of first-time students registered where they were being educated, and that would overcome the problem. If people were picked up in that exercise by making them aware of postal votes so that they ensured that they were still registered in Cambuslang, for example, they could pick up their vote in that way.

Robin Parker: That highlights an issue that we will clearly have to work on closely with the Electoral Commission and EROs, and we would be happy to do that.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Good morning.

I think that I am right in saying that the ERO in Glasgow used to automatically register all students who came into the city and stayed in halls of residence as a matter of course. That certainly used to happen, but it may not still happen. If that is not done any longer in Glasgow, should the ERO consider doing it again? Should other local authorities consider a similar way of working?

Robin Parker: Yes. I think that that would involve using the block registration methodology, working with the universities to get a register of everyone who is staying in the halls of residence and block registering them.

Patricia Ferguson: It occurs to me that there will potentially be a lot of young people who are just starting their first term at university who will have been registered at home but will have moved somewhere else. James Kelly's example of a person who goes from Cambuslang to St Andrews is probably as good as any. In the student’s first term, it is clear that there will be a very short space of time between their arriving at university and the referendum taking place—although we do not know exactly when it will take place—and a lot will be going on in their life at that point, we hope. Should there be particular awareness raising around freshers weeks, for example, to ensure that young people who are in that category understand that they will probably have to vote by post and that they will need to get into that process and use it? There are probably several hundred thousand young people in that category every year, and 2014 will not, of course, be any different.

Robin Parker: That certainly emphasises the need to have the date on which the referendum will take place as soon as possible. An independent campaign that ensures that people are involved would be able to use things such as freshers weeks.

If people can be block registered, they can still have both options. If they have been block registered in halls of residence, they can vote in that way, or they could have a postal vote using their home address. Both options would be open to them. However, on supporting block registration, there is a strong argument for using lots of university halls of residence as polling stations. How often each ERO reviews where their polling stations are varies. Given that there will be a very high turnout in the referendum, a positive step would be to encourage all EROs to review their polling stations in the run-up to it and to think about the university issue in particular. Some universities have a polling station on campus in the halls of residence, but others do not.

Patricia Ferguson: Thank you.

Stuart McMillan: I have a few points to raise.

On block registration, I studied away from home and maintained my registration at home, not where I went to study. I did that because that is
what I wanted to do, and I remain to be convinced—certainly from what I have heard this morning—that block registration would be a worthwhile exercise to undertake. Obviously, up to now it has been about empowering young people to register and then to vote in whichever way they see fit. However, from what I have heard thus far this morning, it seems to me that the effect of block registration would be to tell people that they had to vote rather than to empower them to make up their own minds about what they wanted to do. I therefore remain to be convinced about block registration.

Robin Parker: To try to convince you, I would say that block registration has the flexibility to give someone the option to vote using either their home address, if they choose to do so—

Stuart McMillan: Sorry, but I will interrupt you just for two seconds.

The Convener: Let Robin finish his point, then you can come back in.

Robin Parker: A student can keep a term-time address and a home address, but they are allowed to use only one of them for voting. However, they are empowered to choose which one and so have the option of using their home address—they can register that themselves and carry on voting from that address. Block registration does not get in the way of that.

Stuart McMillan: But surely the choice should be up to the individual voter. They should be able to choose where they want to vote rather than be told that. Block registration would mean telling them that if they were going to vote during term time, they would have to vote from their term-time address.

Robin Parker: But they would still have the choice of keeping their home address for voting. It does not—

Stuart McMillan: I understand that, but surely—

Robin Parker: They cannot have two term-time addresses.

Stuart McMillan: I think that we can continue this discussion some other time.

Robin Parker: Yes.

Stuart McMillan: Okay. Another point is that there are young people who will not be in school or at college or university, because lots of them will be working or doing apprenticeships. How will you encourage those young people to register and participate? Do you see a role for the likes of Skills Development Scotland to get involved in that, particularly with regard to apprentices? Will you work with SDS to encourage people to register?

Andrew Deans: Yes. We have to realise straight away that engaging with young people who are out at work or in apprenticeships, or not in education, employment or training at all, is always a challenge. As an organisation, we have tried to engage with such young people, and I think that we have been fairly successful. However, such engagement will probably take a little bit more effort and thought this time, and we will have to engage with people in Skills Development Scotland and others who are in contact with those young people who are often involved with youth work services and non-formal education services outwith schools. Reaching them is one of the challenges and doing it will require a bit more thinking by you, us and organisations such as Skills Development Scotland, which might be able to help us.

Emily Shaw: Again, there is a point to be made about using the internet, because it is so accessible.

The Convener: Annabel Goldie has a supplementary question.

Annabel Goldie: I was interested in the debate between Robin Parker and Stuart McMillan on the issue of block registration. Robin, do you know what proportion of university students living away from home reside in halls of residence and how many are in accommodation elsewhere? Does anyone have that information?

Robin Parker: I could see whether we could get that information to you.

Annabel Goldie: I think that it might be helpful to the committee.

Robin Parker: The situation would vary widely between different kinds of university. Some universities, such as the University of St Andrews, are the halls-of-residence type, whereas students at the University of the West of Scotland, for example, live at home and perhaps work and study part time. We have not even begun to talk about colleges, where everyone stays at home. There is a really important role for universities and colleges as community hubs, because they are at the centre of the communities around them. The same positives would come from using them as polling stations as come from using schools.

The Convener: Stuart McMillan has a final question.

Stuart McMillan: My question is about encouraging 15-year-olds to register. Do the witnesses foresee any challenges in making a bit more use of the rolling registration that Andrew Deans talked about? Let us take the example of a household in which the parents were not minded to register or to vote and a 15-year-old who wanted to do so. Could there be conflict within
such a household if a great deal of emphasis was placed on encouraging 15-year-olds to register?

Andrew Deans: I am not sure. I think that there will be challenges with 15-year-olds for rolling registration. For us, one of the good things about 15-year-olds is that almost all of them are in formal education in school, although one of the less good things is that 15-year-olds who will be 16 by the date of the referendum will be mixed in with 15-year-olds who will not be 16 by that date. One of the challenges is probably around ensuring that, whoever is doing the registration, whether teachers or EROs, we do not have some young people thinking that they can register and vote when, in fact, they cannot.

I am not sure whether that answers the question that was asked, but that is one of the challenges that I see. However, I also think that there is a great opportunity for rolling registration.

Robin Parker: That can be done through schools, but I highlight those who are not in stable circumstances. It will be important to encourage EROs to work with organisations that work with vulnerable young people, young people in care and those who are homeless.

Stuart McMillan: That is helpful. Thank you.

The Convener: I do not see any indication from my colleagues that they want to ask more questions, so I thank David, Robin, Emily and Andrew for coming along and giving us such good evidence this morning. You have given us a fair bit to consider. The evidence session has been very valuable to us and we are grateful for that.

I have noted down two points that relate specifically to the bill. The first point is whether the electoral registration officers should be empowered by statute. That has been raised before, but I am glad that you have put it back on the record. The second issue is the design of the registration form. I am grateful for those points. The wider points that you brought to us are also very much to the fore of what we need to think about. Thank you very much for your fantastic evidence.

We will suspend for five minutes to have a changeover of witnesses and a comfort break.

10:31
Meeting suspended.

10:38
On resuming—

The Convener: Welcome back, committee, to the second session of this morning’s evidence taking on the Scottish Independence Referendum (Franchise) Bill. We are now taking evidence from Tam Baillie, Scotland’s Commissioner for Children and Young People, and from Ken Macdonald, who is the assistant commissioner for Scotland and Northern Ireland in the Information Commissioner’s Office, which is obviously different from the Scottish Information Commissioner.

We are grateful to you, gentlemen, for coming along to give us evidence today. I know that, given Ken MacDonald’s role, I cannot ask him about the data issues. He is more interested in issues to do with fairness and lawfulness rather than issues of policy intent. However, it would be useful to hear for the record what Tam Baillie thinks about the principle of votes at 16 and 17, before we widen the session out to other questions.

Tam Baillie (Scotland’s Commissioner for Children and Young People): I have said on the record that I agree with the principle of young people aged 16 and 17 voting. In fact, I would go further than that: although the committee’s consideration and the bill relate specifically to the referendum, we should give serious consideration to giving young people the vote beyond that. However, I know that that is not within the committee’s scope.

I strongly believe in the participation of children and young people. Since I have been children’s commissioner, I have shaped my office around listening to the voices of children and young people because I think that they have the same wisdom as many adults. I heartily support 16 and 17-year-olds getting the vote in the referendum.

Stewart Maxwell: What are the panel’s views on child protection? Clearly, there has been a debate about 16 and 17-year-olds voting that is more to do with the voter registration process, particularly with regard to 15-year-olds. Does the bill strike the right balance in ensuring that we get proper registration and protection for children?

Tam Baillie: The proposal for a separate register for young voters is good and goes some way to achieving that balance. There are technical issues about young people who may be vulnerable not having to disclose their address, but the bill’s provisions take care of that. In fact, there is even the opportunity for anonymous entries in the register, although I am not sure whether the provisions or the criteria for anonymity take account of children who may be in care establishments or foster placements. If they do, that balance will be achieved.

It is key to ensure that children and young people are aware of their voting rights at 16 and 17 and, in particular, that any professionals that are around them are also aware of those rights, because young people will rely heavily on them. More vulnerable people in particular will have to
relies heavily on the guidance and support of the professionals or carers that are around them. A lot of consideration has been given to increasing awareness in the run-up to the referendum; it will be particularly important to get to those young people who are most vulnerable.

A balance must be struck to ensure that all young people aged 16 and 17 get the vote and that their identity or even their address is protected. The provisions achieve that, but there is one thing that I will draw attention to. If I understand it correctly, there is an intention to map those 16 and 17-year-olds on the register—I know that it is not part of the franchise bill, but you will consider the issue later—for the purposes of turnout and the interest that some people have in the analysis of where they are voting. Care must be taken about whether or not that is publicly available.

Stewart Maxwell: I do not know that it is the case that people will be individually mapped or tagged.

Tam Baillie: If that is not the case, I am pleased about that.

Ken Macdonald (Information Commissioner’s Office): We responded to a previous consultation by the Government on its original draft bill. It has made significant changes since then to enhance the privacy of vulnerable children. We support the current drafting.

I share Tam Baillie’s concerns about anonymous registration and how that fits in. The declaration of local connection is another option that allows young people to register but does not disclose where they are staying. Anonymous registration is limited by particular restrictions in the Representation of the People Act 1983. I suggest that it should be a compulsory element where a non-disclosure order is in force. In our regulatory capacity we have come across breaches—often accidental—of non-disclosure orders. That is a risk that we have to acknowledge. The bill should perhaps be strengthened in that regard.

10:45

Stewart Maxwell: I am interested in the comments on vulnerable children, children in residential care and children for whom non-disclosure orders are in place. I would like to explore that issue a little more. Do you have genuine concerns that the bill does not match the needs of young people in those situations, or is it simply the case that further explanation is required of how the roles, as laid out, will need to be interpreted?

Ken Macdonald: The bill is probably strong enough, but I would ask you to consider the element concerning the non-disclosure orders, because of our previous experiences.

Also, the canvassing form needs to be a bit clearer about the options that young people have. The way that I read it, I do not pick up any information about the opportunities for declaration of local connection or anonymous registration. The part of the Data Protection Act 1998 about the fairness of processing suggests that that really should be up front so that the young person—or the householder who is completing the form—is aware of it.

Stewart Maxwell: I have read the form before, but I have just had a quick glance at it again, and I think that you are right to say that the form does not contain that information. However, we are not sure whether supplementary information will be provided along with the form.

Ken Macdonald: It may well be, but we have yet to see that, obviously. However, again, for the purpose of the fairness of processing, and taking into consideration the vulnerability of some of the young people, it would only be right to have the information on the form, so that the option can be considered at the point at which the form is being completed.

Stewart Maxwell: Tam Baillie, do you have a comment on the matter?

Tam Baillie: No, other than that it is important that the people around vulnerable young people are aware of the ins and outs that have just been discussed. That will take a fair bit of awareness raising. Careful thought needs to be given to how we can ensure that that happens.

Stewart Maxwell: I assume that you are talking about the staff in residential care units, foster parents and so on.

Tam Baillie: Yes.

Stewart Maxwell: I want to ask about young people who are with a person—usually the mother—who has suffered domestic violence and is now living in a unit or somewhere similar in order to be protected from a violent partner. Has enough been done to ensure that we have the right balance between ensuring that those young people can take part in the process and ensuring that their anonymity is protected?

Ken Macdonald: I think that appropriate provisions are in place. My understanding is that the young person could declare their local connection, which would link them to their parents’ address, or they could go for the anonymous registration. Even if they are not subject to a non-disclosure order, they would still be able to get the certificate from a social worker to say that it would
be appropriate for them to be granted anonymous registration.

**Stewart Maxwell:** You think that that solution is sufficient.

**Ken Macdonald:** I think that it probably is.

**Tam Baille:** I should add that those young people might be very mobile and be moving from address to address. That will be a general issue when it comes to where they should register and the fact that, by the time of the vote, they might be somewhere different from the place where they registered. It will not be easy to sort out the bureaucratic processes around that. People should bear it in mind that all young people—including the most vulnerable—not only have issues around disclosure but also often have issues around movement or placement.

**Stewart Maxwell:** Thank you. That was very helpful.

**Annabel Goldie:** Like Stewart Maxwell, I have been squinting at the canvass form and think that you are correct—I see nothing that alerts the person filling it in that there might be qualifying criteria for young people where certain sensitive issues are involved.

Section 9 of the bill, which stipulates that the register of young voters must not be published, contains the provision that

"The register, or an entry in it, may be disclosed to a person for the purposes of an independence referendum, but only in accordance with ... the Act of the Scottish Parliament by virtue of which the referendum is to be held."

Do you have any concerns about that? After all, campaigning groups might be out with canvass cards, knocking on doors and asking whether people are in, and whether they mean to share information or not they might well end up doing so.

**Ken Macdonald:** My understanding is that campaign groups will be provided only with a register that combines the usual electoral registration for the over-18s and the register of young electors, and there will be no way of discriminating who is 16 or 17 years old and who is over 18. In that way, security will be built in.

If I recall correctly, the original draft bill that the Government put out for pre-consultation contained a question about the disclosure of the register of young electors to interested parties such as the official campaign groups. I am pleased to say that, as I understand it, that proposal has been withdrawn and that the groups will now have a joint register.

**Annabel Goldie:** So dates of birth will be excluded. Are you satisfied that there are no residual issues of concern about this provision?

**Ken Macdonald:** I am, but, going back to Tam Baille’s point about counting, estimates of turnout and so forth—which does not appear to have been addressed in the bill—I will say that we raised certain concerns with the Scottish Government about the proposal to disclose young electors at the point of the ballot and the need to make markers in that respect. That proposal seems to have been withdrawn, but it might well be considered later because there will be an interest in the turnout among young voters.

**The Convener:** But when the vote takes place and those markers are made, all the young people in question will be 16 or 17, not under 16. What, then, is the issue?

**Ken Macdonald:** Even though their age has changed, some of those young people might still be in a vulnerable position and might not be as mature as we would normally expect them to be. They should be afforded a degree of protection.

**The Convener:** Are you talking about all 16 or 17-year-olds or just those who have already identified themselves as being vulnerable?

**Tam Baille:** Is this not why you will have a separate register for young voters? If it is to become part of the publicly available register post-election—I believe that it will be available for 12 months—and if markers are to be put next to the names of 16 and 17-year-olds that had previously been kept in a separate register, does that not defeat the purpose? Of course, I understand the interest in seeing those figures.

**The Convener:** I suspect that we will hear evidence from others, particularly the Electoral Commission, about the need for more information to be available on these matters. I am simply trying to ensure that we tease everything out before we hear from the Electoral Commission, which might have a slightly different perspective on the matter.

If members have no more questions on child protection or other wider issues, I will ask a couple of general questions about the bill. First, does the panel have any comments on the fantastic evidence that we heard earlier this morning from young people? Secondly, are there other areas in the bill that need to be strengthened?

**Tam Baille:** I have two comments to make. First, I re-emphasise the question of how we make young people aware of the referendum—you posed that question to the organisations on the first panel. The one thing that gets every 15-year-old out of bed in the morning is going to some form of education; that is an excellent opportunity to raise awareness. I would raise awareness of the process and of the right to vote—that is quite different from the political debate. It is inevitable that lots of schools and other educational
establishments will hold mock elections and mock referenda. We do not have a national curriculum in Scotland but, for me, that fits perfectly with lots of things under curriculum for excellence: responsible citizens, confident individuals, effective contributors and successful learners. It is about democracy in action, and this is a rich area in which we could be encouraging young people through Education Scotland and the provision of education. There is a great opportunity here to utilise the referendum as a focal point. We need to be careful about the politicisation of it, but I am talking about the whole referendum process and the place of 16 and 17-year-olds in that process. If the Government is serious, it could look towards that with regard to raising awareness.

Secondly, I wish to pick up on some points that were made earlier about rolling registration. We have been talking about the household census and the household registration process, but rolling registration might lend itself to part of the process of raising awareness through schools. We assist young people with their university applications through schools. That is where they go—that is where we can get to children and young people. If we are serious about raising their awareness, schools provide a way and a method of doing that. You might want to think much more seriously about some of the suggestions that have been made about rolling registration, which, in all honesty, I had not thought through before hearing the evidence this morning. There is something in there about how we get to young people through the process of registration, which heightens awareness of the referendum without running the risk of politicisation. We want to ensure that young people are aware of the referendum, but without using them as captive audiences for politicising it.

Patrick Harvie: I wish to explore some of the issues around schools that Tam Baillie has raised. In the previous evidence session, there was some discussion around not just awareness raising but the promotion of participation. The Electoral Commission has a role there, on a neutral basis, and the campaigns and political parties will be wanting to promote participation on a partial basis—encouraging people to vote yes or to vote no. There will also be young people in schools—16 and 17-year-olds—who are themselves campaigners and activists on both sides. What do you feel about a duty on the part of local authorities to promote participation or to work with the Electoral Commission to promote participation? What kind of activities would be appropriate in schools? What would cross the line into inappropriate campaigning?

Tam Baillie: Generally—although not on the referendum—I would support a duty to participate. The Government is putting together a children and young people bill, and I am pressing hard to ensure that some articles of the United Nations Convention on the Rights of the Child are included in it. Participatory approaches are central to that. That is different, however, from political debate about the respective sides of the referendum argument.

The issue is absolutely one of participation, but there is a need to be careful. In particular, there is a responsibility on the part of the Government to ensure that people’s awareness is heightened. People know the Government’s view with regard to the debate, but that does not take away from the responsibility to ensure that we reach all the children and young people. The registration process, and the promotion work that could be undertaken—by Education Scotland, for instance—would be very productive not just for the referendum but for the future. The issue is how well we listen to the views of children and young people and how much we trust their judgment.

11:00

We can reach young people. I carried out an exercise called “A Right Blether”, in which our ambition was to reach as many children and young people in Scotland as possible. From the very small office in which I operate, with 13 or 14 staff, we managed to poll the views of 74,059—more than one in 10—children and young people.

Patrick Harvie mentioned our ambitions with regard to how many young people we can encourage to be part of the referendum. I think that we can raise awareness among 100,000 individuals, although whether that can be converted into engagement with the referendum is another matter.

That element is firmly in the Government’s hands. We can say, “Well done—16 and 17-year-olds have been given the vote”, but the Government then needs to ensure that children and young people know about that, and that it uses every structure and makes every possible effort to engage with them. Education Scotland can have a powerful role, as can some of the organisations that have been represented here this morning.

Patrick Harvie: I want to tease out your views on the type of activities that you would support taking place in schools. If schools are to have the confidence to know what they are allowed to do in that regard—such as inviting people in for a neutral question-and-answer panel session, or encouraging discussion in class—we need an agreed set of rules about what is appropriate and what is not. Where does the balance lie? What would, in your view, represent crossing the line into something that is not appropriate? What type
of activities would you like to see happening in schools?

Tam Baillie: Schools do such things now in any case.

Patrick Harvie: Some do.

Tam Baillie: Okay—I do not think that anyone has an overview, but I have lost count of the number of schools that I have visited, and around election time many of them will host mock elections. There has been much discussion today about peer education. Schools do not invite political parties to participate in the hustings—they generate activity within the school population, with students stimulating debate on each side. That is what happens at the moment.

Patrick Harvie: Some schools go further and hold hustings with candidates at election times, but other schools feel that they are not allowed to do that when in fact they are. Is it appropriate to give young people the opportunity to question the campaigns in response to a controlled, unbiased and neutral presentation?

Tam Baillie: I would be careful about politicising such events too much, but I am all for raising awareness of the debate, and I think that those activities will take place in any case. One of the considerations for Education Scotland when it produces material—if that is the intention—is that it must be clearly and completely politically neutral. That is a difficult balancing act for the Government, which is responsible for ensuring that such activity is stimulated in the education system.

The Convener: Does anyone else want to raise any other points? Tam Baillie has responded to my question, but would Ken Macdonald like to put anything else on the record?

Ken Macdonald: I am afraid that I did not attend the first session this morning, so I have no comment on what was said there. However, I will raise two issues. The first concerns the retention of the register. The Scottish Government’s consultation on the bill contained provisions for the copies of the register that are held by the EROs to be deleted and destroyed after a year, while the copies that are held by the official campaigns could be retained. We argued that that should not be the case, and that if the copies were to be destroyed by the EROs, they should be destroyed by the campaigns too, because there would be no need for that information to be held under the Data Protection Act.

I have seen nothing in the bill or in the explanatory notes that refers to the retention of the register and its consequential deletion. That may well fall under other legislation, such as the Representation of the People Act 1983, but I think that the committee should seek reassurance that the register will be destroyed after an appropriate period.

My second point has limited relevance for data protection principles. I draw the committee’s attention to the service declaration. I see that there will be provision for people who are in the armed forces and abroad, as their partners will be able to make a service declaration, but that does not appear to extend to the children and young people who are still living with their parents and fall into those categories. They would therefore be disfranchised, by my reading of the bill, so I suggest that you examine that issue.

The Convener: Have you seen the policy memorandum with regard to that provision? It refers specifically to the service declaration, does it not?

Ken Macdonald: Paragraph 32 on page 7 of the explanatory notes refers to the service declaration, but it mentions only “their jobs (or the jobs of their spouses or civil partners)”. There will be young people who live with their parents and who should therefore be included.

Annabelle Ewing: That is an interesting point. I thought about it this morning when I was preparing for the meeting and I intend to look into the issue.

The armed forces will, of course, be subject—notwithstanding what some of us may have read in the papers yesterday—to the procedure that has been in place for many years, which involves making a service declaration, in addition to the possibility that they could be ordinarily resident voters.

An earlier paper that the clerks or SPICe helpedfully prepared for the committee referred to the children of those in the armed forces who were reaching the relevant age threshold. As I said, when I read through the bill in preparation for today’s meeting, the situation was not quite as clear cut. Dr Macdonald makes a fair point, and we should look into it further.

The Convener: I agree. If there are no other points to raise, I thank everyone for coming and giving us such helpful evidence. I have been scribbling down some of the things that you have said so that we can consider them further, and I am sure that my colleagues have been doing the same.

Before we come to the end of the meeting, there are a couple of things for us to remember. Written submissions in response to the committee’s call for evidence will be posted on the committee’s web page when they come in, and the clerks will provide us with hard copies, which will be
circulated to members after the first deadline of 21 March so that we will have a folder full of them.

When the bill was published, copies were distributed to all members of the committee. I am aware from talking to some of my colleagues that some members did not receive it in the way that others did. Members therefore need to remind the document supply team where they would like copies of bills to be sent.

Linda Fabiani: It seemed to me that those of us who do not get the Business Bulletin delivered in hard copy but need to look for it ourselves electronically did not get the bill because it was sent out with the bulletin.

The Convener: You can tell the document supply team that you want bills specifically sent to you in hard copy to your desk if you wish. I am just advising members—

Linda Fabiani: I think that that should happen automatically for members of the committee.

The Convener: I am just telling you what the process is.

Linda Fabiani: I am not arguing with that, but I think that when a bill is directly relevant to a committee and someone is a member of that committee—

The Convener: Can we come back to that at the end of the discussion?

Linda Fabiani: I do not want every bill landing on my desk in hard copy—I just want those that are relevant to me.

The Convener: I have got your point. We will deal with that.

Linda Fabiani: Okay—thank you.

The Convener: I will close the formal meeting and we will have a quick chat about other things.

Meeting closed at 11:08.
Scottish Parliament
Referendum (Scotland) Bill Committee
Thursday 21 March 2013

[The Convener opened the meeting at 09:00]

Scottish Independence Referendum (Franchise) Bill: Stage 1

The Convener (Bruce Crawford): Good morning, colleagues, and welcome to the seventh meeting of the Referendum (Scotland) Bill Committee in 2013. Stewart Maxwell has sent his apologies and Bill Kidd is here in his place.

The first item of business is oral evidence on the Scottish Independence Referendum (Franchise) Bill at stage 1. The Parliamentary Bureau has, as you might have expected, formally referred the bill to us as lead committee. As an update for colleagues, I note that the Subordinate Legislation Committee has reported no concerns about the delegated powers in section 11 or about the level of parliamentary control.

I welcome to the meeting our first panel of witnesses, all of whom are from the Electoral Commission: John McCormick, the electoral commissioner for Scotland; Andrew Scallan, director of electoral administration, and Andy O'Neill, head of office Scotland. Thank you for coming along to the Scottish Parliament to give evidence. I believe that Mr McCormick wishes to make a brief opening statement.

John McCormick (Electoral Commission): I will indeed be brief, convener. Thank you for the invitation to meet this morning.

The Electoral Commission recognises that questions about the franchise and who can vote are rightly matters for the Parliament. Our priorities are to help ensure that the electoral registers are secure and accurate and that there are no barriers to participation for electors. In that regard, we welcome the clarity of the policy memorandum and the bill itself, which seeks to ensure that all 16 and 17-year-olds will be able to vote, and look forward to working with Scottish Government officials and the committee as the legislation is developed in the interests of voters.

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The Convener: Thank you very much for that brief introduction. James Kelly will start off with questions on voter registration.

James Kelly (Rutherglen) (Lab): Good morning, gentlemen, and thank you for attending. I am sure that you will give us the benefit of your expertise in this area.

It goes without saying that if we want 16 and 17-year-olds to participate in the referendum we need first and foremost to get them registered. I am therefore interested in your overview of the activities that you think will be necessary to maximise registration of 16 and 17-year-olds in addition to those that you already undertake with regard to electoral registration.

John McCormick: To begin with a headline comment, I think that, as Mr Kelly has noted, encouraging people to register for an election or referendum is one of our key priorities in the lead-up to the event itself. We have been going through all our plans and the details of what we do in every campaign and, of course, we refresh them for every referendum because every referendum is different. This particular referendum, for example, is unique in that, for the first time, 16 and 17-year-olds will be allowed to vote.

We have a range of approaches to deal with that matter. I will ask my colleague Andy O'Neill to go into some of the detail, and then we will have a brief wrap-up at the end.

Andy O'Neill (Electoral Commission): It is fair to say that we are at the start of our thinking about how to address the problem of ensuring that all 15 to 17-year-olds are registered. It will form part of the wider public awareness activity that we assume we will be given in the main Scottish independence referendum bill once it is published. At the moment, we are developing our plans and, indeed, have costed some of them to inform the Scottish Government’s financial memorandum to the bill.

Our plan’s main objective will be to ensure that everyone who can register is registered and that all electors understand the date of the poll and to provide information on proxy and postal voting and how to complete the ballot paper. At the moment, we think that our awareness campaign will be based around a leaflet or booklet that will be delivered to all households; of course, no concepts have been tested but, when we reach that point, we will test the booklet extensively with the Scottish public, including 15 to 17-year-olds, to ensure that it is clear and impartial and covers all the necessary topics.

I think that the awareness campaign will fall into two phases. If we take a similar approach to that taken to the 2012 local government elections or the 2011 Scottish Parliament elections, we will carry out a lot of registration activity and then issue the booklet and push people towards that. As I have said, the booklet will be delivered to all households and we will also make it available to councils and others so that they can put it in their
public areas. We also envisage using television, radio, paid-for newspaper advertisements, posters and online activity.

An interesting point is that, for people who have never voted, which will be the case for 15, 16 and 17-year-olds, we have in the past used YouTube to show what happens in polling places and to promote registration, for example through the “Ballot box man” viral clip. We also do a lot of media work.

Coming back to your main question, I think that you are right. Our main challenge is to get all 15 to 17-year-olds registered. Given that this is the first time we have ever done that, we want to ensure that there is no potential for confusion. We want to work with everyone that it is appropriate for us to work with to ensure that 15 to 17-year-olds are registered. To that end, we have already started talking to the Association of Directors of Education in Scotland—in fact, Bruce Robertson will give evidence in the next session—and we have made contact with Education Scotland. In the past, we have worked with the National Union of Students Scotland, the Scottish Youth Parliament, Young Scot and so on. We are mapping out who we need to work with and how we can work with them. We certainly read with interest the evidence that you took last week from some of those people; they set out a lot of good ideas, and we can try, where appropriate, to work with them.

That is probably all that I want to say by way of introduction. I will try to answer your questions if you have any.

John McCormick: We also have a very well-established relationship with the communications network of specialists in each of the local authorities and, in partnership with the Electoral Management Board for Scotland and the communications network, we target specific events for the local population. In that respect, we are looking for advice on ways in which, locally, we can get in touch with 15, 16 and 17-year-olds and target them with information about registration and the date of the referendum. The approach is local and national as well as viral through the electronic media at our disposal.

James Kelly: Coming back to Mr O’Neill, I am obviously encouraged to hear that you have been talking to some of the relevant parties with regard to 16 and 17-year-olds and that you have read last week’s evidence, which I think provides some excellent pointers. Correct me if I am wrong, but it seems to me that, in developing publicity and ideas to get people registered—which, I have to say, I am not against—your main drive has been to concentrate on general registration and hope that 16 and 17-year-olds get pulled along. However, I did not get any sense of the specific publicity or initiatives that are going to be targeted at 16 and 17-year-olds.

Andy O’Neill: I apologise if I have given you that impression, but we must ensure that everyone who can register is registered. We are trying to build on what we have normally done; we have never tried to engage with 15 and 16-year-olds, and it is still too early to say what works and what does not. At the moment, we are trying to map out which organisations and individuals we need to work with and the type of activity that works with younger people, a lot of which, we guess, will be internet based. However, we do not have any definite plans. Instead, we are trying to ensure that we do whatever is necessary.

James Kelly: But do you intend to devise plans that specifically target this new group of 15 to 17-year-old voters?

Andy O’Neill: Yes.

John McCormick: We know from past experience of referendums and elections about the low turnout in the 18 to 25-year-old age group. There is an overlap in that respect, but one advantage that we have with 16 and 17-year-olds is that they can be targeted in a particular way. That said, there is an issue with young people in general.

James Kelly: Last week, another issue relating to the registration of student voters was raised. We expect that the date of the referendum will be autumn 2014—we will know later today—and many first-year students, who may be 16 or 17 years old, will be participating in their first vote. They may have registered their home address but have moved to a student location. That presents challenges for ensuring that they get to vote at their new location. Some of the evidence that we heard concerned rolling registration and being able to sign up students en masse. Have you given any consideration to those issues?

Andrew Scallon (Electoral Commission): To supplement the answers that Andy O’Neill gave earlier, it is important to bear in mind that our activity will be phased over a long period. We will start household activity alongside the normal household canvass so that young people will be added on the form that is in the bill. There is also rolling registration, so registration will take place over a long time. It is not as though it is a snapshot in time or as though we have a narrow window to influence registration; it can be a long-build campaign.

You are right that students can be registered at their home address or their term-time address. They have a choice about where to go. They do not have to be registered in both locations. Once the referendum date is known, we will consider the strategies that we can use to work with the
electoral registration officers, the university authorities and NUS Scotland to ensure that students understand the options that are available to them.

**Linda Fabiani (East Kilbride) (SNP):** I have a quick query about trying to encourage and enthuse young people. I take Mr McCormick’s point about low turnout among young voters up to the age of 25. Is there room for the Electoral Commission to second some people from other organisations that have a level of expertise in the matter?

**John McCormick:** We have a good track record of working in partnership with others. If there was an opportunity for someone to be seconded, we would certainly not be against that but, previously, we have worked on building a partnership and working with it. I notice that one of your previous witnesses talked about a coalition of interest. We would hope to be part of that coalition and work together with it.

We are open to whatever is the best way of sharing and pooling experience and then working together to ensure that all 16 and 17-year-olds and young voters are registered, know how to vote and participate in the referendum. That will be our priority and we will work together with others in whatever is the most effective way to do that.

**The Convener:** What resource does the Electoral Commission have to deliver an effective social media campaign? Will that resource require to be brought in from elsewhere or is it strong enough in-house?

**John McCormick:** We have that resource at the moment. We have targeted quite successful campaigns at young people in previous elections. I used to be able to give you the number of hits that our different voting animations received. I could send you those figures afterwards, but I cannot recall them at this hour in the morning. We also noticed that some of your previous witnesses talked about having used DVDs and viral messaging. We can certainly learn from them, but we have a lot of experience and a highly experienced website team who have developed animations that have been tried and tested in elections and have worked. We would like to retest those animations, update them and customise them for the referendum. We have that within our existing resources.

**The Convener:** Social media goes a bit deeper than that. It includes how we make the best use of Facebook and Twitter. There are companies that can multiply hugely the number of tweets that you get. Do you need to look deeper into that area of activity?

**Andy O’Neill:** We are engaging a social media agency to advise us on all of that as part of the wider public awareness. Obviously, 15 to 17-year-olds will be a major part of that work.

In its brief, 12-year history, the commission has done outreach work for a long period. We have expertise in that. There are people who, like me, have been in the organisation for almost 12 years. We worked with Facebook in the 2010 United Kingdom parliamentary general election. On a certain weekend, if you went into Facebook, a registration page came up for the “About my vote” website.

We also did the “Ballot box man” viral video, which we tried to get people to pass on to others. I do not do Twitter—

**The Convener:** I was just going to ask how many followers you had to prove it.

**Andy O’Neill:** Not very many, sadly.

The video is specifically a registration message. If you watch it on YouTube, you see a ballot box that bursts into life and runs away from someone in a polling station because they are not registered. It is at that level. Obviously, we will look to our agency to give us more professional advice than anything that I might come up with.

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I have a more general question that I want to ask, but first I will come back to James Kelly’s question to Mr Scallan about student voters. A first-year student—or a student in any year, for that matter—could be registered at their home address but find themselves at university when it is time to vote.

We do not know the referendum date yet, but we know that it will be in the autumn. A student could pass the date when they could get a postal vote or a proxy vote before they realise the situation. If it is someone who lives in Cambuslang and goes to the University of Glasgow, that is not a problem. However, if it is someone whose home is in Glasgow and who goes to the University of St Andrews, it is unlikely that they will return home to vote. Are you thinking about how you would capture that particular group of people—it may be a small group, but we do not know yet—who might, through no fault of their own, find themselves disadvantaged?

**Andrew Scallan:** The process will be about registering and then about the options that will be available to people. We are assuming that the timelines for the referendum will be very much as they are for every other electoral event. Everyone will know the deadline to get applications in by and they will have time to think about their position.
The publicity will be geared towards those dates and people will be left in no doubt about the timeline. Eleven days before the referendum day, I feel that everybody will know that the event is taking place. We will be putting out clear messages that will ensure that everyone understands the deadlines. The opportunities to apply for a postal vote, to apply for a proxy vote, and to register will all be part of the message. It is not simply about registration; it is about how people participate in the event.

**Andy O'Neill:** It is also about targeting messages to key small groups. In the interesting example of student voters, we could work with the universities or with the student associations to ensure that students who are coming from parts of Scotland where they have a vote to somewhere that is far away from home are aware of that issue so that they make arrangements beforehand. They could apply for a postal vote or a proxy vote 11 days beforehand. It is a matter of identifying the issue, coming up with a solution and actioning it.

**Patricia Ferguson:** That would be helpful, because if it is someone’s first time at university, they have a lot of other things on their mind, never mind the referendum—no matter how important it is.

To move to my more general question, Mr O’Neill mentioned earlier that you are really at the beginning of the process. Do you have enough time? We are making efforts to get this bill through Parliament by the end of June so that electoral registration officers can do their canvass in the autumn. That is not a lot of time to get the household registration part of the work and the campaigns for that done. We do not yet know how many 16 and 17-year-olds will be picked up as part of the household registration or as part of the rolling register. Therefore we catch only a certain amount of young people through that method. We are looking at a variety of options to get people to register.

**Andrew Scallan:** At the moment, we have no concerns about the amount of time that we have. Putting together plans takes some time, but we have experience of commissioning work at short notice. We have more time for this event than we have had for some others.

**Andy O'Neill:** We have already started talking to the agency that we employ and briefing it on the referendum in Scotland in general. We are probably more ahead of the game than we normally are with public awareness campaigns.

**Andrew Scallan:** To come back to the household canvass versus rolling registration, the household canvass—with letters through the letterbox and people knocking on the door—has consistently proved to be the most effective way of getting information.

**Stuart McMillan (West Scotland) (SNP):** In Andy O’Neill’s comments earlier, I did not hear Skills Development Scotland mentioned in relation to working with younger people, particularly those who are doing apprenticeships. Has that been factored in?

**Andy O’Neill:** It is on the list—my apologies for failing to mention it in my remarks.

**Stuart McMillan:** That is not a problem. Thank you. I have another question, if that is okay, convener?

**The Convener:** Is it related to what we have just been discussing?

**Stuart McMillan:** Yes, it is. On the issue of first-year students and people who travel away from their home, we used terminology last week about registering people en bloc. These young people ought to be given the option—they should have the information that would allow them to choose whether to register at their hall of residence or maintain their registration at home. What would your preference be?

**Andrew Scallan:** I do not think that we have a preference. It depends on the nature of the student population and on the institution at which the students are based. It is individuals who are eligible to register. Any block registration would need to be based on the accurate information that is needed to ensure that people are entitled to be on the register. I do not think that we have a preference. It would depend on the nature, scale and size of the accommodation.

**John McCormick:** We are aware that, in Scotland, fewer students than in the UK as a whole are in halls of residence that can have block registration. Therefore we catch only a certain amount of young people through that method. We are looking at a variety of options to get people to register.

**Annabel Goldie (West Scotland) (Con):** Good morning, Mr McCormick, what is your budget specifically for advertising and disseminating information? Does it include TV advertising?

**John McCormick:** Yes, it does. Mr O’Neill probably has the figure to hand. We are satisfied from our discussions with officers of the Government that we will have sufficient resources. We have put in an application for the funding that would be required for a multimedia campaign. We estimate the budget to be in excess of the figure that we had for the Scottish Parliament campaign, which was regarded as successful. Andy O’Neill has given me the figure of £1.8 million. We are satisfied that the resources that have been allocated will be adequate. We have given a clear
and detailed budget of what we think we require, and it includes multimedia—radio and television as well as material such as booklets.

Bill Kidd (Glasgow Anniesland) (SNP): I may have missed something that has been mentioned already, but could you tell me about work you may be doing with local authorities with young people in care or similar situations? In your work to raise awareness, are they a group that has been picked up to ensure that they get their opportunity to vote?

Andy O'Neill: We have not done so in Scotland to date, but it is something that we are looking at. When that issue came up in the evidence last week, it made me think about work that we have done with the care commission and the Scottish Human Rights Commission to help people working in care homes to understand how to help people fill in postal votes. We could do further such work if we could provide guidance for young people in care that was fed out via councils and various establishments. That is another example of identifying a problem, coming up with a solution and putting that into action. We may have to work with various partners that we have never worked with before, but we could do that.

John McCormick: We are also aware that not every potential 16 and 17-year-old voter can be targeted via an apprentice scheme through Skills Development Scotland or through education. We are just beginning to think clearly how we might get to people in that age range who are difficult to access and will try to come up with solutions and proposals.

The Convener: Before I move on to Tavish Scott and wider participation issues, I have a specific question about the register of young voters and the form in schedule 2 to the bill. What is your view about that form—is it satisfactory in its present state? Have you had a chance to look at it, and is it suitable for the annual canvass and the rolling registration process?

Andrew Scallan: The form is still subject to user testing. We are awaiting the outcome of that before the form is finalised, but we have no reason to think that the user testing will not be thorough. The form follows the lines that other forms have used and basic information is being asked for. We will comment on the final version when we see it but, at the moment, a good process is being followed to test its usability.

The Convener: Stuart McMillan has a supplementary question, which I will allow before coming to Tavish Scott.

Stuart McMillan: Thank you once again, convener.

Last Friday, I asked a former member of the Scottish Youth Parliament whether it would be useful if the registration forms for 15-year-olds were of a different colour from those for normal household registration. He thought the suggestion worth considering and did not rule it out.

Andrew Scallan: Certainly, that could be considered. It might help in the messaging that we want to put out.

Andy O'Neill: We are not involved in the testing, but I guess that in the testing the forms will be given to the interviewees in the manner in which they would receive them in practice. Presumably, they will receive an envelope with two forms. The testing could try the same colour and different colours to find out what happens.

Stuart McMillan: When I spoke to that individual, I was thinking about the different-coloured ballot papers that have been used in previous elections to the Scottish Parliament. That gave people a clear message when they went to vote. He thought that the idea was worth considering.

John McCormick: That is why we are so supportive of the testing. We are delighted that that has been included in the bill, so that we can all contribute to that.

Tavish Scott (Shetland Islands) (LD): I must say how envious I am of those who have £1.8 million to spend on an election campaign, but there we are. Mr McCormick, the figure that you gave is useful, but are you able to separate out that budget into what will be spent on encouraging young people to register—I take all the points that you made about that—and what will be spent on encouraging participation and involvement, which is the why-you-should-vote bit of it? Has a clear judgment been made on how the money should be spent on those two aspects of your work?

John McCormick: We will have to write to you to give our understanding of the way in which the budget was built up in detail. I do not have the figures on the build-up, but we could write to the convener on that.

Andy O'Neill: That will be difficult to achieve because, to use an analogy, we would need to apportion how much of the leaflet is for registration messages, how much is for how-to-vote messages and how much is for proxy-vote messages. That would be quite difficult to achieve, but we could try to provide some sort of broad figure.

Tavish Scott: That would be fine. Am I right in saying that there are two stages? The first stage is about asking young people to register, helping them through that process and ensuring that they are all registered. The second stage is about encouraging them to go on to vote.
Andy O'Neill: Yes. As usual—sorry, I may not have made this clear—there will be a registration phase and then, as the leaflet is produced and information on all the other activities such as the date comes on stream, we will move towards that. Obviously, if people are not registered, they cannot vote, so we need to emphasise the registration message first.

Tavish Scott: In your earlier answer to James Kelly, you described all the mechanisms that the Electoral Commission plans to use to encourage people to register to vote. What will happen after that? Do you plan to use all those mechanisms again for the second stage of the process?

Andy O'Neill: Obviously, we have not planned everything out in detail, as we assume that we are still 18 months away from the event. Generally, when we are a long way out from the event, we emphasise registration. As we get nearer to the event, we emphasise postal vote deadlines and registration deadlines. In the past, such as in 2011-12, we have then emphasised the date of the vote and how to fill in the ballot paper. You may expect something similar.

Tavish Scott: Mr McCormick talked earlier about the challenge of getting young people between the ages of 18 and 25 to vote in referenda. In the Electoral Commission’s experience, what worked and what did not work in the referenda—not the election campaigns—that we have had? I appreciate that we have not had too many referenda, but have any lessons been learned from the few referenda that we have had?

John McCormick: We were particularly gratified by the numbers who used or accessed our Facebook site, our YouTube viral messaging and our website animations. We will look at that again in relation to 16 to 25-year-olds. Broadly, I know that the number who accessed those was much greater than the target that we had set ourselves.

Tavish Scott: Following previous referenda, was analysis done about the percentage of 18 to 25-year-olds who voted? Do we have any breakdown on that?

Andrew Scallan: We cannot check through the registers, so we get those sorts of figures from public opinion research, which we can happily make available to the committee. However, that is reported voting. Obviously, we cannot check the registers in any way.

Tavish Scott: I appreciate that you cannot check the registers but, regarding the analysis that you did after those referenda, did you find some way to correlate the work that you had done that was targeted on that age group and how successful it had been?

09:30

Andrew Scallan: Yes. The questions are: after the event in question, did people vote or did they not, and how did they know about the event—how did they get the message? That is a fairly standard approach regarding access. I cannot remember the details, but we will have that information and we are happy to supply it to the committee.

Tavish Scott: If you could share that with us, that would be great.

Have you given any thought yet as to what is appropriate in schools? I am referring to the second stage—not registration but participation—and schools are obviously a mechanism by which one can ensure that information is provided to people of that age. I also refer to the evidence that the committee received from Tam Baille, Scotland’s Commissioner for Children and Young People, last week.

John McCormick: In general, and as we said at the outset, that falls under the category of working with our partners who are specialists in the area. The Association of Directors of Education in Scotland and School Leaders Scotland have already made statements about what they would expect, with headteachers and local authorities working together to ensure that the situation in schools is managed appropriately, that the information coming in is in the control of the educationists and that the educationists approve the access that is granted to the school.

We have already opened discussions with ADES and we will be working with others to keep ourselves informed as to the issues that arise and as to how we can assist in preparing materials. However, we will do all that work through the educational specialists.

The Convener: I will come back to Annabel Goldie later if she wants to return to canvassing issues, but we will go through some of the issues on participation and turnout first.

Patrick Harvie (Glasgow) (Green): I want to follow up on the two points that Tavish Scott has just been discussing. First, I have a point about evidence and how we know which of the activities that are intended to increase turnout actually work—not just those for increasing awareness but those that are intended to have an effect on whether or not people vote.

I used to work in public health and we had the same difficulty: how do we know whether the activities that we undertake actually have an effect? What happens in terms of public health or behavioural change is affected by a whole host of other factors, which we cannot measure.

Is there any academic evidence on which you can draw from other jurisdictions, particularly on
how to engage with younger voters and on what actually works and what has an effect on increasing turnout? We heard from Jersey and Guernsey, which had very different experiences of engaging with young voters, regarding the turnout levels there—although those are small jurisdictions. Is there any international academic evidence on which you can draw that informs the design of your campaign, based on who knows what works?

**John McCormick:** I am not sure whether my colleagues are aware of the international evidence, but I am reminded of the health warning around all advertising and communications activity: only 50 per cent of it works, and we do not know which 50 per cent that is.

Furthermore, the Electoral Commission is clear about the fact that every event is different. Every referendum is different. We can take some of the messages from a previous referendum, but unique messaging and unique, bespoke approaches must be devised for this referendum. We are trying to do that, too.

**Andrew Scallan:** There is international evidence, but it is rare that one experience is simply transferable to another jurisdiction. We work very closely with the electoral commissions of Canada, New Zealand and Australia to examine best practice. Their activity will influence how we design our process, but there is no silver bullet for the issue of turnout. We will do everything that we can to ensure that people understand the options that are available to them to participate, which involves ensuring that they are on the register and that they understand the channels that they have to vote.

**Patrick Harvie:** Have you thought about engaging, or even recruiting on a voluntary basis, young people themselves to advise you—15, 16 and 17-year-olds who could give you direct advice about what they think will work?

**John McCormick:** As I said earlier, we are open to working with everybody who can help us. I have been reading the evidence that the committee has gathered—I note in particular Young Scot’s access to young people. We are open to working directly with young people, but we will also benefit from the experience and knowledge of those young people who are already working through other agencies. We are looking forward to building on those relationships over the next few months.

**Patrick Harvie:** Tavish Scott raised the issue of schools, and you talked about ensuring that the activities in schools are appropriately managed—I think that that was the phrase that was used. Have you yet reached a view about what that means in practice?

The vast majority of the young cohort of voters will be in some form of education. That presents us with a huge opportunity, but it will not materialise unless it is exploited properly and appropriately. Young people must be exposed to the arguments in a neutral and managed way, and they must be allowed to express their own point of view.

For example, most people would agree that it would be inappropriate to have the campaign groups campaigning and proselytising in schools. However, is it appropriate for young people who have a view to wear the badges and the T-shirts and give their friends leaflets? Have you reached a view about what level of activity will fall within the term “appropriately managed”?

**John McCormick:** No. It might be inappropriate for us to do so. We will work with educationists; the local authorities, which are responsible for delivering the education service in the schools; the headteachers, who are responsible to the local authorities; and the education advisers that they have around them from Education Scotland, the Association of Directors of Education in Scotland and the unions and specialist associations. Those are the people who should make those judgments; we will be happy to advise them on issues relating to the referendum, where we think that we have expertise to give them.

**Rob Gibson (Caithness, Sutherland and Ross) (SNP):** I want to ask about the issue of the languages that you use to spread your message. You have spoken about the bespoke nature of the referendum. Will that change the languages that you use in your literature?

**Andy O’Neill:** The short answer is yes. For all of our awareness-raising campaigns, we employ a public relations agency. In this case, we will also have a social media PR agency advising us. If young people come up with ideas and give them to us, we will take them on board and think about them. Obviously, we are prepared to work with anyone who has a good idea. We test all of our ideas on the whole of Scottish society and, in this case, we will test the things that we want to do with 15 to 17-year-olds with that age group. I guess that the language will change and will be suited to that age group.

**Rob Gibson:** I assume that Scotland’s other official language, Gaelic, will be included in your materials, as well as other minority ethnic languages.

**Andy O’Neill:** Yes. We have used all those languages in the past, and I imagine that we will use them in the future.

**Annabel Goldie:** Section 7(2)(c) of the bill specifically provides for non-disclosure of a young person’s address, but the canvass form in
schedule 2 makes no reaffirmation of the facility of non-disclosure of the address. Will the commission specifically consider that issue in its testing of the form?

Andrew Scallon: The commission is not testing the form—the Scottish Government is doing that. However, when we see the form again, we will have regard to that issue.

Annabelle Ewing (Mid Scotland and Fife) (SNP): This week, the Westminster Scottish Affairs Committee discussed the reservation entitlement of service personnel. My understanding is that, dating back to the Representation of the People Act 1983, service personnel have certain options about where they register to vote and can register either as an ordinary voter—an overseas voter, potentially—or as a service voter.

The written evidence that was provided in the advice to the Scottish Affairs Committee by the Ministry of Defence says:

“A Service voter can register an address where they currently reside in the UK, an address where they would be living if they were not in the Services or an address where they have lived in the past. In the latter case this could be a parent’s address, or a previous private or Service residence.”

During the section 30 order debate in the House of Lords on 16 January 2013, the Advocate General, Lord Wallace of Tankerness, said:

“Members of the armed forces will be able to vote in the referendum if they are on the register in Scotland either as a result of an address in Scotland or a qualifying address showing a connection to Scotland, such as service accommodation in Scotland; an address in Scotland where they would be living if they were not in the services; or an address in Scotland where they have lived in the past.”—[Official Report, House of Lords, 16 January 2013; Vol 742, c 754.]

The options available seem fairly comprehensive, and I seek your comments on the issue.

Andrew Scallon: The range of options for service personnel is comprehensive but it depends precisely on where a person is at a certain time. That range of options is not available to all service personnel all of the time. You are right that service personnel have the choice of being registered as an ordinary voter. There is also potential for a member of the services to be an overseas voter, although when the MOD gave evidence to the Scottish Affairs Committee it said that less than 1 per cent of service personnel are registered as overseas voters.

Service personnel can also be registered through a service declaration. On the service declaration, the person is asked where they had residence when they completed the declaration. That could be an address where they are based in England or it may still be an address in Scotland if they are able to establish residence in Scotland. Service personnel will have a choice if they are able to establish residence.

The basic premise of establishing residence applies wherever a person is based in the UK. There are slightly different rules for those who are based outside the UK and it is in that situation that a person can elect to go back to an address in Scotland, even if they cannot prove residence. It is a fairly complicated issue.

Annabelle Ewing: I am not sure that your answer contradicts what I have quoted from the MOD and the Advocate General. From my previous life as a lawyer it seems quite clear that there are many options available if a member of the services seeks to register to vote in the independence referendum. The definition is fairly wide, and they would have the facility to register should they wish to.

Andrew Scallon: The definition can be wide, but it will depend on the circumstances of each individual registration application and it will be for the electoral registration officer to make a determination based on the information provided by the service personnel.

John McCormick: We work with the MOD on those matters and we co-operate to provide information relating to the registration options, the date of the referendum and so on, as you would expect.

Andrew Scallon: There is a campaign under way in the forces, and the MOD has unit registration officers whom we will work with over the coming period to ensure that people properly understand the nature of their registrations. Many people think that the service declaration, which lasts for five years, is a fixed declaration. That declaration can be altered and a new declaration made. If a person wants to make an assessment about their circumstances, they can change the nature of their service declaration with no issue whatsoever, as long as they are able to demonstrate that link to residence.

The Convener: I want to raise some general issues. You submitted considered opinion in relation to the Government's initial consultation document, and we now have the bill in its current state. Are you satisfied that the Government considered enough of the concerns that the Electoral Commission raised, or are there remaining concerns that you want to draw to our attention?

John McCormick: Our headline issue was to ensure that the bill was drafted in such a way as to include all 16 and 17-year-olds. That was one of our key aims and, as I said at the outset of the session, we are satisfied that the bill has achieved
that. There are one or two other issues that we have raised with the Government and a number of technical issues that we hope to progress as the bill passes through the parliamentary process.

The Convener: But the discussions that you are having with the Government are generally positive.

Andy O'Neill: Yes. We made a number of technical comments in January this year on the franchise bill as it was then drafted. It has now been split, and some of the sections in relation to registration and access, supply and use of the register are now in the main referendum bill, which we do not yet have. We assume that our comments on those sections have been taken up but, until that bill is published, we will not know.

09:45
The only comment that we can make relates to paragraph 18 of the policy memorandum to the franchise bill, which talks about who will get access to the merged register—that will be the chief counting officer, the counting officer, us, the lead designated organisations and printers, and suchlike. One of our principles is that there should be no barriers to campaigning. We note that, if what is in the memorandum is carried through into the main referendum bill, other campaigners that are not the lead campaigners—which are the yes and no campaigns—might not have access to all the details of people who can vote in the referendum. We would be interested in, and the committee will want to know, the reason for deciding to draft the bill in that way, if it is drafted in that way.

Another technical matter that might come up is that the access arrangements for the lead designated organisations might mean that they get access to the merged register only some 10 weeks before the referendum date. In other circumstances, parties often tell us that, if a register is changed quite close to an electoral event, it is difficult for them to upload the details to their software systems. Parties normally tell us that six weeks or so are needed to achieve all that. We could finish up with the lead campaigners having only a small window in which to update their software systems. We might suggest that the committee could ask the Scottish Government whether it has thought about that and whether it has sought the views of parties and the nascent lead campaigners on that point.

The Convener: That is more to do with the next bill that is coming up.

Andy O'Neill: Yes. We take the position from the policy memorandum, but the provisions will be in the next bill.

The Convener: Are there any outstanding technical issues with the franchise bill that we need to consider?

Andy O'Neill: No.

The Convener: Does anyone else have questions? Thank you, gentlemen, for coming along this morning and giving evidence—[Interruption.] I apologise to Annabel Goldie—I forgot that I was going to come back to her. The witnesses are not off the hook yet.

Annabel Goldie: I have a simple question. The bill is repealed on 1 January 2015. Do you expect the young voters register to be destroyed thereafter?

Andrew Scallan: Data protection rules require organisations not to have information that they no longer need. The purpose would clearly have expired, so the information would not be held.

There is one challenge in that EROs will have information about people who will become 17 during the life of the register. There is something about having information that would be useful. When the committee speaks to EROs later, they might well say that they have worked through the issue, but there is something about them knowing that there is a cohort of people who could in theory be moved on to the main register because of their age. There is potentially a dilemma in there being information that could help in compiling the normal register but the law saying that the information is no longer needed after the referendum.

Annabel Goldie: The raison d’être for the information will be gone on 1 January 2015.

Andrew Scallan: Yes, but my point is that there will be information on the young persons register that would help EROs in compiling future registers. If all that information disappears, the work will be generated again.

John McCormick: That is a matter of the 17-year-olds who would be attainers on the register for the election that follows the referendum.

Annabel Goldie: They would be picked up in the routine process.

Andrew Scallan: They should be picked up in the routine process, but the evidence on the register is hard evidence of someone’s date of birth. The hope is that everyone will be picked up in the routine process, but there is a risk that that will not happen.

Annabel Goldie: That is not the crisp, succinct and precise answer that I was looking for.

Andrew Scallan: As I said, the information should be destroyed because it will no longer be required for the purposes of the referendum, but it
will include good information that would help EROs to compile their registers in the future.

Annabel Goldie: Your appendix is in or out.

Linda Fabiani: Just for clarification, who makes that decision?

Andy O’Neill: We would expect that to be covered in the other bill.

Linda Fabiani: Right—I must have missed what you said.

John McCormick: We would expect the register to be destroyed.

Linda Fabiani: But you will not know until the referendum bill is published.

John McCormick: We would expect that to be covered in the other bill and we expect the register to be destroyed. There is a caveat that electoral registration officers might raise with you about having access to hard information for the general register.

Annabel Goldie: But you expect it to be destroyed?

John McCormick: Yes.

Patricia Ferguson: This might be a question for the electoral registration officers, so forgive me if it is. Will there be sufficient time while the young persons register is extant for an assessment to be done of how many young people who are registered actually vote?

John McCormick: It is not a question of timing, as there will be no marked register that shows the way in which 16 and 17-year-olds vote. For obvious reasons, they will not be specified, so there will be no way of knowing that.

Patricia Ferguson: So there is no way of knowing. That was my thought.

Andy O’Neill: There was provision in the earlier consultation draft of the bill to give marks that would allow someone to total up the figures to see how many ballot papers had been issued to 16 and 17-year-olds, but our understanding is that that is not in the current bill.

The Convener: I think that, this time, I am correct in assuming that no one else wishes to ask a question, so I thank our witnesses for their evidence.
elections in May or June, which we keep forgetting about, and the referendum in October or November—is for them to be well run and well administered and to produce results that are accepted, by which I mean accurate and correct, and for there to be no barriers to voters taking part in either of the events.

**The Convener:** If none of the other witnesses wants to make an opening statement, we will move to questions.

**Linda Fabiani:** I want to cover an issue that did not come up with our previous panel, but on which we have taken advice and opinion from all our other panels. I would appreciate all our witnesses’ views on how the issue of child protection in relation to 16 and 17-year-olds has been approached and whether they are confident that relevant issues have been taken into account.

**Mary Pitcaithly:** I might defer to Brian Byrne on that question, but I will start by saying that it is a matter for Government to be clear on issues relating to data protection and child protection. We are entering new territory, and I am sure that a lot of advice is available to ministers and parliamentarians on those issues. Most returning officers are also local government chief executives, so we obviously have those matters very close to our hearts.

**Brian Byrne (Scottish Assessors Association):** A few things in the bill are aimed at child protection, such as the provision on not publishing the young persons register until very late in the process and the right for young people to disguise their address. There are some issues with that provision, but they could be worked out. The ideas are good: we should not be able to give out information on a young person either for credit reference or to anybody buying the register. The register will be used only for the referendum and will be available only very close to it. Everyone on the published register will be 16 within a few weeks of publication, so that reduces the likelihood of any issues arising.

**Kate Crawford (Association of Electoral Administrators):** As EROs, we are used to handling sensitive or possibly sensitive material. We do that just now with, for example, personal identifiers for postal vote applications, so we are used to handling material that needs to be dealt with carefully. Anonymous registration falls within our remit as well. We have safeguards in place.

**Bruce Robertson (Association of Directors of Education in Scotland):** The issue of child protection is paramount across education and children’s services. We want absolute clarity on the use of the data once it is sourced and we want to ensure that that data is used for the purpose for which it is required. Certainly, we want to ensure the child protection dimension and that abuse of the data just does not happen.

**Linda Fabiani** poses an interesting question and raises an important issue. Normally one thinks of child protection in other dimensions, but this is a good example of an area where it must be taken into consideration. Indeed, headteachers, teachers, parents and carers would want those assurances.

**Linda Fabiani:** We have heard from Scotland’s Commissioner for Children and Young People and others in the field that they felt that their views had been taken on board and reflected. It would seem that people in the field are generally satisfied with what has been achieved. However, as Bruce Robertson says, we should always be vigilant.

**The Convener:** That is probably an inevitable conclusion. I will bring in Annabel Goldie on that point.

**Annabel Goldie:** With the repeal of the bill—or the act, as it will become—on 1 January 2015, do you agree that the register of young voters should be destroyed?

**Brian Byrne:** I will try to follow on from what Andrew Scallan said. The register is good information. Generally, such information should certainly be destroyed if there is no other use for it. However, everyone on the register will be over 16 by then and it would be good information to use for individual registration, to avoid having to send all the people on it an application form to join the full register. Entries could be individually checked against information from the Department for Work and Pensions.

I have suggested to the Cabinet Office that if we could use the young person’s register as a good, robust source of information about voters to test against the DWP’s information, that would remove the need to write to each person individually. However, if child protection issues—even for 16-year-olds—were so great that we could not do that, we would have to issue an application form to everyone.

**Annabel Goldie:** Would you need some further legislative protection to let you retain the register?

**Brian Byrne:** Yes, we would need legislation to allow us to do that. The point is that, having got the young people to join in the process, we would be asking them to do so again, rather than automatically continuing their registration.

**The Convener:** Given Bruce Robertson’s particular role, as opposed to that of the EROs, I ask him for his view.

**Bruce Robertson:** I would like to think that the most important legacy of this is that young people in Scotland will become politically literate and will...
understand the issues, and that they will take that forward as active citizens in Scotland.

As far as data protection and its legal surrounds are concerned, we would take advice from our lawyers and comply with that. With respect to the convener’s question, what I feel about that personally or professionally is, in a sense, irrelevant. The legal issue is what is important. I think that that is the line that educationists would take. We must ensure that when we work in our schools and, beyond them, in colleges and other institutions, we work within the law. We would comply with that.

I think that the most important legacy relates to citizenship.

Patricia Ferguson: I have a question on that point for Mr Byrne or Ms Pitcaithly. Will there be a difference in age—or in relation to any other relevant factors—between a 16-year-old who has been on the referendum register and a 16-year-old who is identified as an attainer on a normal register?

Brian Byrne: The referendum will be held in the autumn of 2014, so after the autumn we would begin to think about the next canvass. We would be trying to capture the same people about whom we already had details. It seems bureaucratic to ask them for the same information that they have already given us.

Mary Pitcaithly: We will just have to work within whatever the legislation says in that respect. I recognise the potential benefits, but there are potential issues as well.

The Convener: We seem to have exhausted that area, so we will move on to issues of voter registration in general, which James Kelly will ask about.

James Kelly: Good morning. You will be aware that an issue that has come up in previous evidence sessions is the UK legislation to introduce individual, as opposed to household, registration. Do you have a view on whether it would be better to delay the introduction of individual registration and to use household registration for the referendum?

Brian Byrne: That depends on the date of the referendum. If a fairly early date is set, we would suggest to the Cabinet Office that we should delay the introduction of individual registration until after the referendum. If a fairly late date is set, we would want to go early with individual registration—immediately after the European elections. If the date is somewhere in the middle—in October 2014, say—that would cause slight problems, because it is arguable that there would not be a full amount of time in relation to the referendum, so some things might have to cross over or electors would get information on two different processes at the same time. However, we would try to keep that to a minimum.

James Kelly: We will know the date in a few hours’ time, but let us assume that the date is in October 2014. What would be your preferred approach as regards registration?

Brian Byrne: I would prefer us to start the individual registration process on 1 November.

James Kelly: So, if the date of the referendum is October 2014, you would prefer it if individual registration were delayed until after that.

Brian Byrne: Yes.

James Kelly: To get 16 and 17-year-olds registered, you will use the annual canvass. Will you use any other techniques to identify 16 and 17-year-old potential voters?

Brian Byrne: We should be able to get information from education departments. We do that at the moment for attainers, and we hope that we would be able to extend that. The bill mentions that the same rules would apply. That would mean that we would be able to pre-populate the canvass forms, which the bill seems to encourage. We would have the information on where the 16-year-olds lived and who they were; we would just need them—or someone in the household—to confirm that that was still the case. That would get them on the young persons register. If we did not get confirmation, we would follow up if we thought that a young person was living there. Ultimately, if a person did not engage, we would remove their name from our database and they would not be registered.

James Kelly: Would that cover 15-year-olds who would be 16 at the time of the referendum?

Brian Byrne: Yes.

James Kelly: Is it the case that there are no legal obstacles to that?

Brian Byrne: I do not see a legal obstacle. There does not seem to be a legal difference between 14-year-olds and 15-year-olds, but I understand that trying to capture 14-year-olds would extend the child protection issues. That would need to happen only if the canvass were more than a year before the referendum date. Therefore, it is quite important to know the referendum date to be able to work that out. We imagine that we would be looking for 15-year-olds and 16-year-olds for the register.

James Kelly: When it comes to the organisation of the poll, as well as getting as many 16 and 17-year-olds as possible registered, we want to get them to vote and to enjoy the voter experience. What do you think needs to be done to ensure that polling place arrangements are
smooth for 16 and 17-year-olds who are voting for the first time? In addition, many members of the general population will probably vote for the first time in the referendum.

10:15

Mary Pitcaithly: It is important that all voters are able to vote if they wish to do so. We would want all voters, from 16 to 106, who have registered and who turn up at the polling place on the day—having decided not to use proxy votes or postal voting—to be able to vote. We try as far as possible to remove potential barriers. We have been discussing with the Local Government and Regeneration Committee the issue of access to polling stations, the language that is used and so on. Those are all issues that we have to consider constantly.

Whether extra or different messages are needed for 16 and 17-year-olds has yet to be considered. From my point of view, once they are on the register they are potential voters and we should try to make it as easy as possible for them to cast their vote. That could involve issues to do with physical access to polling places or the use of signage and information officers in the polling station, which we have used in previous elections. We could do a range of things together to make it as easy as possible for people to enjoy the voter experience.

Chris Highcock (Electoral Management Board for Scotland): Local authorities work closely with the Electoral Commission on the public awareness exercises that it explained in its evidence earlier. Local authorities are focused on ensuring that as many people as possible are aware of the electoral event, what they need to do to take part and how to take part. We will continue that throughout local authorities in Scotland.

Our other concern would be consistency nationally to ensure that the voter has the same experience wherever they are in the country and whatever age group or sector of the population they are drawn from.

James Kelly: Bearing in mind that the number of people who will participate in the referendum is likely to be higher than in a normal election, has any assessment been made of the need to extend polling stations and polling places within polling stations?

Mary Pitcaithly: Yes. My colleagues throughout the country are looking at those issues. Do we need more polling places? Should we have more staff in them so that we avoid any possibility of queuing, particularly at the close of poll? I know that members are interested in that issue. Should we have more staff involved at peak periods?

It may be that the chief counting officer will decide to direct counting officers locally as to the appropriate number of voters entering any particular polling place. That was done in the alternative vote referendum. There was clear guidance that polling places should not have more than a certain number of electors.

The Convener: I want to bore down into an issue that James Kelly rightly raised with you, regarding 14-year-olds. The canvass form that will go out—which is in schedule 2—refers only to 15-year-olds at this stage. It depends on the date of the referendum, but you expect that that might need to be adjusted. I think that that is really what you are saying.

Brian Byrne: Yes. If canvassing happened more than a year before the referendum day, very few 14-year-olds would be asked to complete the form. However, we have had discussions with Scottish Government officials about the practicalities. There may be ways round that so that we do not need to capture the 14-year-olds while they are 14; we can wait until they are 15.

The Convener: If we find out this afternoon that the referendum is before 1 November, there should not be an issue. Have I got that right?

Brian Byrne: Pretty well, yes.

Tavish Scott: “If,” convener?

The Convener: I assure you that I do not know anything. [Laughter.] I have tried very hard to find out but I know nothing.

I will move on quickly to Patrick Harvie.

Patrick Harvie: I am happy to give you cover any time, convener.

My question is on how the registration process feels for young people, and the information that is communicated about what registration actually means.

If I was 15 or 16 and looking to register as a voter for the first time, everybody would be telling me that it is really important to register and to vote. I might fill in the form or whatever and get registered, but then I might find out for myself, without anyone explaining the reason, that I will not get a vote in May or June, that I will get a vote four months later, and that I will not get a vote six months after that. That could be pretty dispiriting, and disillusionment could set in. How will the registration process explain that that is the case, and why it is the case?

Kate Crawford: I work for Renfrewshire Valuation Joint Board—I am deputy ERO there—and for some years now we have been running schemes in partnership with our local secondary schools. We aim to speak to every sixth year pupil where the headteacher has given us permission to
go into the school. We run a workshop called “Democracy Cookbook”, which is based on some really good resources that the Electoral Commission issued some years ago. We explain the voting process, we ask the participants to build a politician—

Linda Fabiani: I hope you did not bring any samples.

Kate Crawford: I could have done, but you might not have liked some of them. [Laughter.]

We also hold a mock election. Basically, we try to get the young people to engage and consider what politics means to them, what they expect from politicians and what the top three qualities are that they would like to see in a politician. They then have a budget to spend on a local project, and at the end of the process they stand up and do a party-political broadcast and the team that wins gets a wonderful prize.

Patrick Harvie: It gets to run the country.

Kate Crawford: Absolutely. [Laughter.]

Interestingly, when we have gone through that process, about 83 per cent of the students register afterwards. There is an evaluation form at the end of which we ask, “Are you more likely to use your vote because of this?” and the proportion who say yes sits at about 70 per cent. Some of the reasons for not voting that young people give us in their comments are that they do not feel engaged, that they do not feel that politicians address youth issues or engage with young people in general, and that politics and politicians are beyond their remit.

When we ask them how they would encourage people to vote, they say that elections should be made more exciting and that it should be possible to vote online. They do not understand why they cannot vote on their phones, which they think is an obvious thing to do. They have also said that there should be more workshops like the one that we run, because more education is needed, although I know that there are people around the country who do similar things.

In the past few months, we have tried to explain to them that, as Patrick Harvie said, they will be voting this time, but not next time. There is confusion about that, but we are trying to get that message over to them. We tell them that the referendum is possibly a one-off but that it is something that they should be aware of. They are not happy about being given the franchise for one thing but not for the other. They do not understand why that is happening. It is a huge education problem—it is not necessarily a problem for the education authorities, but it is important for everyone to engage to ensure that young people understand what is being taken on. The Electoral Commission is usually very good at providing resources to help to get that message over.

Bruce Robertson: There are some examples of excellent practice across the country. We must ensure that the key agencies work in a co-ordinated fashion so that what happens in Renfrewshire also happens elsewhere. We would like to assure the committee that we will be doing that work, and that no matter where youngsters are—or indeed, given Rob Gibson's earlier question, what their native language is—they will be able to access the information.

There are two dimensions. The first is to ensure that we encourage all 16 and 17-year-olds to place themselves in a position where they can discharge their legal rights as citizens. That involves working with our EROs and the Electoral Commission to ensure that young people understand the process.

The second dimension is about encouraging young people to engage in the debate. I use the phrase “political literacy”. Young people need to understand the issues so that they can make a fair, balanced judgment about them.

It should make no difference whether a young person lives in Helensburgh or Helmsdale. National agencies, working with the likes of Education Scotland, need to ensure that educators—I chose the word carefully, because I am talking about not just teachers but people who work with young people in youth groups and so on—work to the same set of standards and approaches, so that there are no mixed messages. We co-ordinate our approach, using best practice.

Patrick Harvie: Does that imply that we will not face the situation that Kate Crawford described, in which there is good activity only in schools where the headteacher chooses to let people in? Will it be clear to all schools what is expected of them?

Bruce Robertson: Yes. Clear guidance will be given. I have a meeting with directors of education on Monday and the issue is on our agenda. We need to establish clear guidance, so that young people, parents, carers and educators understand the rules of engagement. It should not be left to the whim of an individual.

Patrick Harvie: Will the guidance be publicly available and consulted on?

Bruce Robertson: Yes.

The Convener: Several members have supplementary questions.

Rob Gibson: I want to tease out what Bruce Robertson said about it not mattering whether someone lives in Helensburgh or Helmsdale. How can directors of education ensure that every school provides balanced materials to promote
informed discussion about the referendum in personal and social education and modern studies classes?

**Bruce Robertson:** I do not want to get into the technicalities of the curriculum. Not every school offers modern studies, so we need to ensure that there are opportunities in every secondary school's curriculum. That is where work in collaboration across the 32 education authorities and with School Leaders Scotland, which is the association of secondary headteachers, will enable people clearly to understand what is happening. That is what we all aspire to. We cannot have a situation in which a set of children in Helensburgh has an opportunity to engage that is very different from the opportunity that children in Helmsdale get.

**Mary Pitcaithly:** Wearing my chief executive’s hat for a minute, I can reassure members that the issue is of concern to council chief executives, too. If there is guidance that has been consulted on, we will expect schools to use the material that is made available, so that there is awareness of what is being said. We will support our director of education colleagues in taking that forward.

**Stuart McMillan:** Uptake of 83 per cent among sixth years is exceptional. Could the activity that Kate Crawford described take place with fourth years, too, given that they are compelled to be in school? Beyond the referendum, could work be rolled out with young people from first year?

**Kate Crawford:** In our case, the reason why we do not do the work with children further down the school is simply a resourcing issue, given the number of schools in the joint valuation board area. We can manage the secondary schools and the sixth year pupils, but our aim would be to roll out the work further. From this year, we are extending the work to younger pupils who will be of the age to vote in the referendum. The resourcing of the work is the biggest issue.

Work is needed with all pupils, not just those who take modern studies. My children all studied modern studies, and they were aware of the voting system and their rights and responsibilities, but I have always said to headteachers that that work is not just for modern studies pupils. I have asked whether we can hijack the PSE period and use it to get the message out to as many pupils as possible.

10:30

**Stuart McMillan:** The referendum next year will be a huge event, irrespective of which way people vote and of our thoughts or opinions. Younger people are now engaged just as much as people aged 18-plus. There is a huge opportunity and it would be a shame for younger people not to take full advantage of it. The Parliament is good at engaging with schools, whether through MSPs going out to schools or through schools coming to the Parliament. We all appreciate that engagement, as do schools, which try to work with the Parliament to improve things.

**Kate Crawford:** Absolutely.

**Annabel Goldie:** Our panel of young witnesses last week accepted that, in the dissemination of information, a balance must be struck between providing information and not distracting pupils from essential activity within schools at what may be a critical period—for example, during examinations. How do you get that balance right?

**Bruce Robertson:** It is interesting that they said that to you. In the development of this journey, it is important that we continue to ask young people for their views on key issues. It is important that a disproportionate amount of time is not given over to this activity because most of the young people who will be involved in it will be in the senior phase of curriculum for excellence and studying for national qualifications. However, within the senior phase there are parts of the curriculum and parts of the pupil week where pupils are not focused solely on qualifications. It is in the PSE classes that have just been mentioned that the activity would take place, although there would be spin-offs from that into the more formal aspects of the curriculum and some of the qualifications. That is the happy balance that we need to strike. I want to leave you feeling confident that we will not tilt the balance, as that would be unfair on the young folk.

**Annabella Ewing:** Good morning and thank you for coming.

At our evidence session last week, we heard from former members of the Scottish Youth Parliament and representatives of Young Scot and the National Union of Students, who were all very keen for their respective organisations to be involved in helping with awareness raising. What role do you foresee for them? They are very willing to get involved, and that would help to deal with the issue that Kate Crawford raised about engaging with young people in a way that is of interest to them. Such engagement is easiest when it is led by young people themselves. What are your thoughts on that?

**Mary Pitcaithly:** I refer back to what John McCormick said about our communications network, which works very well with the communications team at the Electoral Commission but could have a role beyond that in talking to representative groups of young people about what they would find useful and valuable. When I get back to my office I will speak to my communications manager—who is an active
member of that network, as the communications staff in Edinburgh will be—to see whether they can contact the witnesses to whom you spoke last week and take forward some innovative thinking around that area. It is an interesting question. As was said in the previous evidence session, we are having to do things differently for a different generation but the overall message is that we need to reach out to all voters.

Bruce Robertson: There is a unique opportunity for YouthLink Scotland, which is an umbrella body, to play an important co-ordinating role. For me, that will be crucial. Obviously, the Scottish Youth Parliament, Highland youth voice and so on will be desperate to engage with the process. I think that managing that engagement might be the issue.

Annabelle Ewing: Thank you.

The Convener: That is a very positive perspective—I like that.

Obviously, you were involved in the Government’s initial consultation. Is there anything in the bill to which you want to draw attention and about which it might be useful for us to hear?

Brian Byrne: I think that the bill states that no application may be made before 1 December, which could be quite a serious limitation.

The Convener: Tell me a bit more about that—explain to the committee what you mean.

Brian Byrne: The bill states that “no application for registration in the register of young voters may be made before 1 December”.

We are discussing how that would work, but as we are likely to want to start canvassing on 1 October, that leaves a bit of a gap, which is an issue. I am sure that it can be resolved, but there is a gap—I think that the original idea was that individual registration would not start until 1 December.

The Convener: I understand. That is a good point and is very helpful.

Thank you all for coming along to the Scottish Parliament and giving us your evidence, for which I am very grateful. I will bash on to the next item on the agenda while you folks make your way from the table.
Scottish Independence Referendum (Franchise) Bill: Stage 1

10:01

The Convener: That takes us to agenda item 2. I give a warm welcome to Nicola Sturgeon, the Deputy First Minister. Government strategy and the constitution are also under her remit. She is supported by three Government officials: Steve Sadler—we have met Steve on a previous occasion—who is the head of the elections team; Helen Clifford, who is the bill team leader on the Scottish Independence Referendum (Franchise) Bill; and Colin Brown, who is from the Scottish Government legal directorate.

Before we get into the proceedings, I remind members that the deadline for written evidence has now passed. All the submissions that have been received so far have been circulated, including some stuff that has been put in front of members today. The Subordinate Legislation Committee and the Finance Committee have undertaken scrutiny of the bill and produced their own results, which have been circulated to us.

This item is a chance for the Deputy First Minister to respond not only to members’ questions, but to any issues that might have been raised in evidence prior to today’s proceedings. I invite the Deputy First Minister to make a short opening statement, after which we will move to questions.

The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon): Thank you, convener.

In October last year, we announced our intention to introduce legislation to ensure that all 16 and 17-year-olds resident in Scotland could register for a vote in the referendum.

Electoral registration officers told us that, because of the timing of the canvass to compile the register for the referendum, they would need to have the power to collect details of eligible young people by the summer of this year. Given that the main Scottish Independence Referendum Bill will not complete its parliamentary passage until November, we need to introduce the Scottish Independence Referendum (Franchise) Bill to establish the franchise for the referendum.

The bill sets out who will be entitled to vote in the referendum and, in particular, puts in place arrangements to enable all 16 and 17-year-olds to register to vote. The timetable that the committee has agreed and published will mean—subject, of course, to the agreement of Parliament—that the provisions in the bill are in place by the summer.
That will enable EROs to start compiling the register for the referendum—including all those who will be 16 and 17 by the date of the referendum—in the autumn of this year.

We have worked closely with registration officers to ensure that the process of registering young voters is as straightforward and accessible as possible. I am grateful to them for the help that they are giving us. A young voter registration form will be distributed to all households in Scotland at the same time as the standard canvass form. Coordinating with the existing process in that way rather than trying to run a separate registration process will ensure that the whole process is as simple as possible for the voter while keeping administrative costs to a minimum.

The arrangements put in place by the bill and the main Scottish Independence Referendum Bill on access to the register are intended to strike a balance between, on the one hand, putting young voters on an equal footing with other voters and, on the other hand, the need to ensure that their data is treated sensibly and responsibly. We have followed the existing registration process as far as possible while making some necessary modifications—for example, restricting access to the full register. The measures that we propose will ensure that the timescales in order to address any child protection concerns have been welcomed by child protection groups.

Young people obviously take on a range of important rights and responsibilities at 16, and we believe that they should have the opportunity to have their say on the future of the country of which they are part. Therefore, it is right that 16 and 17-year-olds should have the opportunity to vote in the referendum on whether Scotland should be an independent country.

With the important exception of lowering the voting age, the franchise for the referendum will be the same as that for elections to the Scottish Parliament and local elections. Eligibility to vote in the referendum will, following the precedent of the 1997 referendum, be based on residency.

I briefly mention the interest that there has been in the position of service personnel. There has been some inaccurate reporting of the situation and we have been criticised for not making special arrangements to allow service personnel to vote. I want to make it very clear that there is no need to make special arrangements. The arrangements that are in place for the referendum will be the same as the arrangements that are already in place to allow service personnel to vote in elections to this Parliament. Service personnel who have lived in Scotland but are currently serving overseas or elsewhere in the United Kingdom will have the opportunity to register for and vote in the referendum, and EROs will be responsible for determining applications from service voters to register to vote, as they do for all voters.

The position for convicted prisoners who are detained in custody has also provoked recent comment. The Government does not believe that prisoners should be able to vote in the referendum, and the bill makes provision to that effect.

The bill gives us the opportunity to ensure that 16 and 17-year-olds are able to play their part in deciding the future of our country on 18 September next year. In developing the proposals for consideration by the Parliament, we have sought to place young voters on an equal footing with other electors. We need to engage young people in the democratic process and ensure that they have access to the same information before they cast their votes in the referendum; we must also take sensible precautions to ensure that, in giving young people the vote, we provide them with proper and adequate protection. I hope that the committee agrees that the bill strikes the right balance in that regard, and I look forward to answering questions on the matter.

The Convener: Thank you, Deputy First Minister. An issue that has been exercising the committee, to which I do not think that you referred, is individual registration and the UK position.

Stuart McMillan (West Scotland) (SNP): As the convener said, an issue that has come up is the introduction, through Westminster legislation, of individual electoral registration and its implications for Scotland, given the timing of the referendum. In correspondence to the committee, you said that discussions with the Cabinet Office were taking place. Can you give the committee an update on the discussions? Has agreement been reached?

Nicola Sturgeon: I can update you. As I said to the committee, my officials have been in regular discussion with Cabinet Office officials about the interaction between the referendum and the UK Government’s planned introduction of individual electoral registration. We have made it clear—to be fair, the UK Government has also made it clear—that we want to ensure that the timescales of the two processes are compatible and that we minimise any adverse impact on the referendum, electors or electoral registration officers.

Following our confirmation last week of the referendum date, the Cabinet Office confirmed on Tuesday that the transition to IER in Scotland will not start until after the referendum—it will begin on or around 1 October 2014, to avoid an unhelpful interaction with the referendum. That is a helpful development, which I hope gives the committee the assurance that you are looking for.
Stuart McMillan: That is helpful. Let me clarify. Are you saying that there will be no adverse implications for the referendum?

Nicola Sturgeon: That is the case. Of course, we will continue to discuss detailed implementation plans with the Cabinet Office. Scottish Government and UK Government officials met EROs on Tuesday to discuss the matter and we will continue to ensure that there is no unhelpful interaction. The confirmation from the Cabinet Office that the process of individual electoral registration will not begin in Scotland until after the referendum gives us a helpful assurance that there will not be such interaction.

Stuart McMillan: Thank you; that is helpful.

The Convener: Will the mechanism that is used in the UK be subordinate legislation, or will primary legislation be required?

Nicola Sturgeon: As I understand it—I am just checking with my officials—subordinate legislation will be used in the UK to bring the process into being.

The Convener: That is a more flexible way of dealing with the matter.

James Kelly (Rutherglen) (Lab): I have a few questions about voter registration. First, we have heard evidence that there can be inconsistent start dates for the autumn canvass that you spoke about in your opening remarks, with some areas starting on 1 October and others starting on 1 December. To get the register updated and as accurate as possible, it would make good sense for local authorities to have a consistent early start date. What procedures are in place in the legislation to ensure that there will be a consistent early start date?

Nicola Sturgeon: When the process is started, it is a decision for EROs. They have not yet all decided exactly when the process will start, but it will be on or around 1 October in all parts of Scotland. If the committee’s view is that EROs should be starting as early and as consistently as possible, we can feed that to them in our discussions. Clearly, it is in everyone’s interest for the register that will be used in the referendum to be as up to date as possible. As well as the annual canvass, there is the rolling registration process that allows people, including young voters, to add their names to the register up to 11 days before the poll. If the committee wants to see certainty, clarity and consistency on the start date, we will certainly feed that view to EROs.

James Kelly: Would you do that in the guidelines rather than in the legislation?

Nicola Sturgeon: As far as possible—this comment will apply to much of what we discuss today—we want the provisions that we put in place through the bill to mirror the normal voter registration process. We are not trying to create a different parallel system; we have to make specific changes to allow for the extension of the franchise to 16 and 17-year-olds with the separate form to take account of the specific issues around that. As far as possible, we want the process to mirror the process that is already in place, and that applies to the start date of the canvass, too. A specific start date for the canvass is not covered in the legislation.

James Kelly: Do you accept that a consistent start date would be helpful to the process and that you would not want there to be a variety of start dates covering a two-month period?

Nicola Sturgeon: Generally, we would want to see a consistent start date but that is likely to happen anyway. I am not sure that it makes a huge amount of difference whether every part of the country starts on 1 October, as opposed to a few days—or even a few weeks—on either side. The point about a generally consistent start date is important, not just for the referendum but to have that system in place more generally in order that people get on the register.

To return to my earlier point, the annual canvass—although it is very important and the central part of the annual voter registration process—is not the only way in which people can get on the register. We have had the rolling registration process for some time.

James Kelly: I will move on, but I reiterate my view—that the committee will come to its view—that a start date that is as consistent and early as possible will be helpful to the process of having an accurate register.

The Convener: Are you moving on to a different area? I have a supplementary question on that issue.

James Kelly: I have a different question on voter registration. We want to ensure that we get as many 16 and 17-year-olds registered as possible. The submission from the National Union of Students refers to extending the powers of the Society of Local Authority Lawyers and Administrators in Scotland with regard to covering the referendum and registering 16 and 17-year-olds. Has the Government considered doing that?

Nicola Sturgeon: We will consider all evidence that was submitted in the early part of the legislative process, as we would do with any bill. A lot of evidence has been given to the committee orally and in writing. The short answer is that we will consider all that evidence, including that proposal from the NUS.
However, my strong view is that the process and arrangements that we are putting in place through the bill are sufficient to ensure that as many 16 and 17-year-olds as possible who are eligible to vote are on the register and able to take part in the referendum; indeed, I want them all to be on the register. What we are putting in place in the bill will enable that to happen, not least because it dovetails so closely with the normal annual canvass process.

I believe that we are taking the right approach, but we will consider any suggestions that have been made. As the bill goes through the parliamentary process, there will be opportunities for the committee and individual members to suggest further improvements that we could make.

James Kelly: So you have not ruled out extending the powers at this stage.

Nicola Sturgeon: I have neither ruled it out nor ruled it in. All I am saying is that we have not yet reached the end of stage 1. As with every bill, we look at all the evidence that has been put forward and decide whether to take forward any specific suggestions. I am not saying that we are going to do that; we are still in the process of giving things due consideration. After all, if people go to the time and effort of submitting evidence, it is only fair that the Government gives their suggestions due consideration.

Nevertheless, I have laid before the committee a bill that I believe puts in place arrangements to enable all 16 and 17-year-olds to vote and to take part in the referendum if they so wish. I hope that all of them do. When we first said that we wanted 16 and 17-year-olds to vote, one of the early concerns was that we might have a process—the so-called attainer proposal—that did not allow all of them to do so. We listened to those concerns and have come up with an alternative arrangement that allows all 16 and 17-year-olds to be registered to vote, and I think that that is the right way to proceed.

The Convener: On a very technical point that relates to James Kelly’s comments on the start of the canvass in October, I note that section 13 prevents anyone from being registered on the young persons’ register before 1 December 2013. I assume that that date was in the bill before we knew the final date of the referendum.

Nicola Sturgeon: I will let Steve Sadler answer that technical question.

Stephen Sadler (Scottish Government): You are correct, convener. That 1 December date was set out before we knew the date of the referendum and indeed before our subsequent discussions with EROs in which they said that they were looking to start around 1 October. We intend to amend that date.

The Convener: That is very helpful. I believe that Patricia Ferguson wants to ask about participation.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): My question is about young people more generally, convener.

In their evidence to the committee, Scottish Youth Parliament members showed particular interest in the nature of the actual registration form, expressing concern that the young voter registration form says something like, “You can register if you are going to be 16 at the time of the referendum”. They felt that specifying the applicable dates would clarify things and make it easier to encourage as many young people as possible to be very clear about their opportunities to ensure that they did not find themselves accidentally disenfranchised or, indeed, that they did not register only to find that they were not eligible to vote. For example, it was suggested that if the bill specified two dates—1 December 1997 and 18 September 1998—young people could be confident that if they registered they would be able to vote. Has the Government considered that—or, indeed, would it do so?

Nicola Sturgeon: The form is being tested at the moment, and we will know the outcome of that testing process by the time we get to stage 2. If it emerges that the form as laid out in schedule 2 is not clear enough and does not avoid the kind of confusion that Patricia Ferguson has signalled might potentially arise, we will consider amending it. As I have said, the appropriate opportunity will arise once the testing process has been completed.

We will of course listen to and consider everyone’s evidence, but the Scottish Youth Parliament is to be congratulated on its campaign to secure the vote for 16 and 17-year-olds.

Patricia Ferguson: Indeed—and the committee found its evidence particularly compelling.

Section 9(3) refers to publication of the register being allowed in limited circumstances, but does not yet—or perhaps will not—detail those circumstances or to whom the register might be disclosed. Can the Deputy First Minister clarify that provision?

Nicola Sturgeon: We are very clear on that issue. If the bill needs to be amended to clarify the position, we will consider doing that. Allowing 16 and 17-year-olds to vote while ensuring that they protect their personal data is one of the central balances that we have to strike in the bill. We are very clear that only electoral registration officers and their staff will have access to the register of
young voters. An individual can ask an ERO to see a particular entry, but access to the register of young voters will be restricted to EROs. We will probably discuss that later, so I will not go into great detail. There will also be restrictions on access to the merged list that will go beyond the normal restrictions on access to an electoral register. That is our intention, so I am happy to consider whether we need to make minor amendments to the bill to make the position absolutely clear.

Linda Fabiani (East Kilbride) (SNP): My question is on the same issue. Throughout this process, I have been consistent about child protection. I have been heartened that people feel that there has been really good dialogue with the Government and that fair solutions have been reached. However, we can always look for improvement.

We have had a letter from Donald Urquhart of the Scottish child protection committee chairs forum. While he welcomes the work that has been done—as does everyone else in the field—he makes additional points that he thinks are worth looking at. For example, he says that

"it would be helpful to have additional guidance on the form that clarifies the process for a young person to register using another contact address, when they are living away from home".

He also feels that general clarity is needed

"about the processes that will ensure local authorities, social workers and other support staff are informed about the child protection provisions, the implications and their role in ensuring that young people can vote safely."

We need reassurance that the dialogue, which has been excellent, continues and that concerns expressed by people such as Mr Urquhart will be taken on board.

Nicola Sturgeon: I am happy to give that assurance. The issues that have been raised are legitimate and very helpful, although I think that they apply more to guidance about the process than to the legislation itself. However, I am happy to assure the committee that we will reflect on those points as we consider the guidance. It is in the interests of us all to get as many 16 and 17-year-olds as possible registered to vote so that they can exercise their democratic right. There will be many people who are important in ensuring that young people understand their entitlement to register and take up that opportunity.

The Convener: Would you like to raise any other child protection issues, Linda?

Linda Fabiani: We have heard from Scotland’s Commissioner for Children and Young People and from various other people. There is a general satisfaction that child protection issues, particularly relating to those who are younger when they register, have been considered well. That should be on the record. I welcome the Deputy First Minister’s commitment that the dialogue will continue.

Nicola Sturgeon: As I have said, I am happy to give that commitment.

On Patricia Ferguson’s point, section 9(3) is a cross-reference to the Scottish Independence Referendum Bill, which will deal with access to the register. That bill has now been published, and members will see that we are very clear about the restriction on access to the register of young voters.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): Good morning, Deputy First Minister. My point is connected to the two previous questions. Section 7(2)(c) provides for the non-disclosure of a young person’s address, but schedule 2, which details the canvass form, does not specifically provide for that non-disclosure. In light of the discussion that we have just had, do you intend to amend that form so that the non-disclosure is more clearly marked?

Nicola Sturgeon: As I have just said to Patricia Ferguson, the form is being tested at the moment and it is important that it goes through that process. We will look very carefully at what comes back from that process, as we did when the Electoral Commission tested the question. We will have good time then to make any necessary amendments to the form before we get to stage 2.

The Convener: I know that Annabelle Ewing is particularly interested in issues to do with the armed forces. Does she want to pick up on those now?

Annabelle Ewing (Mid Scotland and Fife) (SNP): Yes. Thanks, convener.

Good morning, Deputy First Minister. At last week’s meeting, on 21 March, I raised with the Electoral Commission the issue that I want to raise now. I cited a statement by the Advocate General, Lord Wallace of Tankerness, that was made during the section 30 order debate in the House of Lords on 16 January 2013. For ease of reference, I will read that statement out again. He said:

“Members of the armed forces will be able to vote in the referendum if they are on the register in Scotland either as a result of an address in Scotland or a qualifying address showing a connection to Scotland, such as service accommodation in Scotland; an address in Scotland where they would be living if they were not in the services; or an address in Scotland where they have lived in the past.”—  [Official Report, House of Lords, 16 January 2013; Vol 742, c 754.]

Can the Deputy First Minister clarify the position? I know that she briefly referred to the matter in her opening statement, but will she amplify the exact
position, as I know that it has been the subject of press coverage and controversy?

Nicola Sturgeon: I am happy to do that. I do not have the evidence from Lord Wallace in front of me, but the excerpt that Annabelle Ewing read out certainly sounds very similar to what I am about to say to the committee.

There has been some very inaccurate reporting on the matter. I have seen reports that suggest that some servicemen will be barred from taking part in the referendum. I stress that, with the exception of 16 and 17-year-olds, the franchise for the referendum is the same as that for Scottish Parliament and local government elections. Therefore, any serviceman or servicewoman who is eligible to vote and is on the register to vote in a Scottish Parliament or local government election will be able to vote in the referendum.

There are three ways in which somebody in the armed forces can register to vote. First, they can register in the same way that anybody else can, as an ordinary voter. They can register in the same way as civilians by responding to the annual canvass or by rolling registration. If the address at which they are registered is in Scotland, they will be eligible to vote in the referendum. Around two thirds of those in the armed forces who register do so through that ordinary process.

Secondly, somebody in the armed forces can register as a service voter—around a third of those who are registered are registered in that way. They do that by making a service declaration, which is valid for five years. They can register using a UK address, irrespective of where they might be posted in the five-year period. The declaration can register them at the address at which they or their spouse or civil partner are currently living; where they would have been living if they were not in the armed forces; or, if they cannot say where they would be living if they were not in the armed forces, at their last address before they took up their post. Those who register in that way will be eligible to vote in the referendum if their service declaration is made using an address in Scotland.

The third way in which armed forces personnel can register to vote is as an overseas voter. Those who do that would not be able to vote in the referendum because overseas voters are not able generally to vote in the referendum, but that accounts for around 1 per cent of all armed forces personnel who are registered.

To summarise, if somebody in the armed forces is eligible to vote in elections for the Scottish Parliament, they will be eligible to vote in the referendum. That is, with the exception of 16 and 17-year-olds, the same as for everybody else.

Annabelle Ewing: A related issue is the arrangements that are in place to ensure that service personnel are aware of the registration options. I presume that arrangements are already in place and that they will continue to operate with respect to the referendum vote.

Nicola Sturgeon: Absolutely. Because we are mirroring the situation that normally applies for elections, obviously the processes that are normally used will apply. The Electoral Commission will clearly have to factor that into its own planning. It has the responsibility of raising awareness of the referendum, registration and rights to vote, so it will be part of its duties to ensure that that includes the particular situation of service personnel.

The Convener: Another issue that the Deputy First Minister raised concerns prisoners, which Patrick Harvie wants to ask about.

10:30

Patrick Harvie (Glasgow) (Green): Good morning. The Deputy First Minister’s response to some of the written evidence that we have received on prisoners voting makes the case that there is no legal obligation under the European convention on human rights to give prisoners the right to vote in a referendum, even if there is a question mark over the future of the blanket ban on prisoners voting in elections.

The Deputy First Minister might be right about the legal aspect, but I hope that there is willingness at least to discuss the political choice, which the Government is free to make. Simply saying that there is no legal requirement does not mean that prisoners cannot vote.

Does the Deputy First Minister acknowledge that an argument can at least be made that prisoners voting could be seen as part of a rehabilitation process, that there is a moral case in favour of it and that, even if an argument can be made for maintaining a degree of a ban on prisoners voting, that should be for the courts to decide on? A blanket mechanism should not be used; the courts should be allowed to treat differently someone who is serving many years in prison for a serious offence from someone who happens to be, as a result of a much more minor offence, in prison for a few days or weeks at the time of the referendum. Is there at least willingness to debate the issues and acknowledge that there is a case for change?

Nicola Sturgeon: I accept that Patrick Harvie is not questioning the legal position that the Scottish Government has presented, but it might be worth setting that out for the committee. The ECHR is clear—it says that the right to vote is about
“the free expression of the opinion of the people in the choice of the legislature.”

That provision—article 3 of protocol 1 to the convention—and the case law that emanates from it make it clear that the provision does not apply to referendums. The committee has had evidence from Professor Tierney, for example, that backs that position.

As for Patrick Harvie’s other point, an argument can be made for almost anything. I accept that the argument that he put forward can be made, but I disagree with it. The Government does not agree with that argument and has made it clear that we do not think that convicted prisoners who are serving prison sentences should be able to vote in the referendum.

We are in a parliamentary process, and Patrick Harvie—or any other member—absolutely has the right to challenge the position and to lodge an amendment for debate. If that happens, the Government will present its position and we will have the debate. Of course an argument can be put and, if that happens, a debate will be had and the Government will justify its position in the normal parliamentary process.

Patrick Harvie: You said that the Government does not agree with the alternative case that can be made. Why not? Why does the Government not agree that a court should decide, on the basis of the circumstances of an individual offence, whether the deprivation of the right to vote is a part of the punishment for that offence?

Nicola Sturgeon: You said that there is a question mark over whether prisoners will continue to be unable to vote in elections. The UK Government is considering that and what it chooses to do will be up to it. Right now, convicted prisoners who are serving prison sentences do not get to vote, and I do not consider that there is a good argument for changing the position for the referendum.

People who do not commit crimes and do not get sent to jail will have the right to vote. That is a pretty simple principle. I am not saying that it is beyond challenge or that no alternative argument can be made, but I am giving my view and the Government’s view. We will debate that as we go through the parliamentary process.

Patrick Harvie: The Deputy First Minister simply says, “It’s the Government’s view.” I am asking why the Government’s view is that prisoners voting is a matter for a blanket approach rather than a court decision.

Nicola Sturgeon: That reflects the current position. If someone commits a crime that results in them being sent to jail, they forfeit their right to vote. I do not believe that a case has been made for changing that principle for the referendum. That is my simple view.

The Convener: Stewart Maxwell has a supplementary question.

Stewart Maxwell (West Scotland) (SNP): I acknowledge Patrick Harvie’s point that there should not be a blanket ban and that it should be up to the courts to decide. However, surely that is exactly what happens at the moment. The court decides, after someone is convicted, whether there should be a custodial sentence, which means that it is deciding whether they lose or keep the right to vote. If a court gave a judgment of a non-custodial sentence of some sort, it would be perfectly aware of the fact that that would mean that the person would retain the right to vote. Is that not the case, Deputy First Minister?

Nicola Sturgeon: Absolutely. If the bill remains as it is just now, a judge passing a custodial sentence on somebody in the run-up to the referendum will do so in the full knowledge of the implication that the person will not get the chance to vote in the referendum. That is one of the many things that people who sit in judgment of others will take into account in reaching their view about a sentence.

I repeat what I said to Patrick Harvie, which is that we are at the start of a parliamentary process. It is entirely right, proper and appropriate for him or for any other member of the Scottish Parliament to put forward the alternative view. I readily accept that there is a debate to be had on the issue. I am not saying that there are not arguments to be made on the other side. In the same way in which Patrick Harvie states his view, I am simply stating the Government’s view—and Parliament will decide.

Tavish Scott (Shetland Islands) (LD): For clarification, are you objecting to the proposal on moral grounds rather than legal grounds?

Nicola Sturgeon: My objection is on the basis that the current situation is that people who commit crimes and are sent to jail do not get to vote. I do not believe that a good case has been made for changing that situation. If people want to vote in the referendum and to ensure that they do not lose the right to vote by being sent to jail, there seems to me to be a pretty simple way of ensuring that is the case. I would not characterise my position as a moral or legal one—I think that the legal position is absolutely clear. I would characterise it as a practical view on my part and not anything else.

Tavish Scott: So you think that removing convicted prisoners’ right to vote is a punishment that should be added to their sentence.
Nicola Sturgeon: We are not removing the right to vote. Convicted prisoners in jail do not have the right to vote, so I am not removing anything.

Tavish Scott: Yet you have the opportunity to give it to them.

Nicola Sturgeon: And Tavish Scott, like Patrick Harvie, has the opportunity to argue the case of convicted prisoners—

Tavish Scott: But we are here to test your and the Government’s position, Deputy First Minister.

Nicola Sturgeon: With the greatest of respect, Tavish, if you let me answer, you will get the opportunity to test my view.

What I am saying is that you characterise what I am doing as removing a right. I am correcting you to say that I am not removing a right, because the right does not exist at the moment. I am simply clarifying in the bill that we do not intend to give convicted prisoners in jail a right that they do not currently have.

That is my view. I will defend and justify that view through the parliamentary process. If Tavish Scott, Patrick Harvie or any other member thinks, as they are perfectly entitled to, that that is the wrong view, then Parliament will have a debate and Parliament will decide.

Tavish Scott: I appreciate that you have lots of points to make on process, but I am interested in the Government’s position, not the process. So—

Nicola Sturgeon: But I think that I have made that pretty clear. I am not sure what bit of it you do not understand.

Tavish Scott: Well, I will ask the questions that I want to ask, if that is all right.

The Convener: Can you ask your questions through the chair? On you go, Tavish.

Tavish Scott: I beg your pardon?

The Convener: I am just trying to ask some questions, convener.

The Convener: Let me rephrase that: just make sure that we do this through the chair. On you go.

Nicola Sturgeon: It is not a barney.

Tavish Scott: I am just trying to ask some questions, convener.

The Convener: But we are here to test your and the Government’s position, Deputy First Minister.

Nicola Sturgeon: With the greatest of respect, Tavish, if you let me answer, you will get the opportunity to test my view.

The Convener: With the greatest of respect—

Tavish Scott: —can you ask your questions through the chair?

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Tavish Scott: I beg your pardon?

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Nicola Sturgeon: But I think that I have made that pretty clear. I am not sure what bit of it you do not understand.

Tavish Scott: Well, I will ask the questions that I want to ask, if that is all right.

The Convener: Can you ask your questions through the chair? On you go, Tavish.

Tavish Scott: I beg your pardon?

The Convener: I am just making sure that this discussion is done through the chair, so that it is not just a barney across the floor. On you go.

Nicola Sturgeon: It is not a barney.

Tavish Scott: I am just trying to ask some questions, convener.

The Convener: Let me rephrase that: just make sure that we do this through the chair. On you go.

Tavish Scott: Thank you.

In the circumstances that you have described, Deputy First Minister, would I be fair in assessing that the Government’s policy is that you see no difference between someone who is serving a sentence under six months and someone who is serving a sentence in excess of six months?

Nicola Sturgeon: The Government’s policy on the issue is that, if someone commits a crime and the judge sees fit to send them to jail, they should forfeit their right—well, they do not have the right to vote in those circumstances just now, and that should continue to be the case. In the bill, we are not taking away a right that any convicted prisoner has at the moment. As Stewart Maxwell rightly said, the voting right is something that a judge would presumably take account of in reaching a decision on a sentence.

The Government’s position is clear and I think that the reasons for its position are clear. The process for challenging the Government’s position is also clear. I accept that this is not necessarily a straightforward, simple issue for everyone, but we are in a parliamentary process in which people have the right to put forward their own view. If the arguments are good enough, I dare say that you will be able to persuade MSPs to support your position.

Tavish Scott: I will try again. Do you see any merit in the argument about short-term sentences as opposed to longer-term sentences?

Nicola Sturgeon: A lot of arguments draw a distinction between short sentences and long sentences, as the Scottish Government has done. For the purpose of drawing distinctions as regards the right to vote, we do not intend to give prisoners, whether they are sentenced for a short or long time, the right to vote. The argument has not been made for it and it is a right that they currently do not have, so the answer is no. If we thought that a distinction should be made in the context of voting in the referendum, we would have made that distinction in the bill; we have not done so.

Tavish Scott: Okay, I am sure that the Deputy First Minister has read the evidence from the Howard League for Penal Reform in Scotland in respect of other countries. I presume that she is aware that Denmark, Finland, Ireland and Sweden—to mention just a few countries—have no form of electoral ban for imprisoned offenders and I presume that she disagrees with that position.

Nicola Sturgeon: It probably does not take much to work out that I disagree with that position. If I agreed with it, I would have drafted the bill that we are currently discussing in a very different way.

I am trying to be as reasonable about this as possible. I respect the view that others are putting forward; I respect the position that other countries take; and I respect the fact that there is a difference of opinion and an argument to be had. I am simply putting forward my view and the view of the Government. I do not see what Tavish Scott finds so difficult to understand about that. I accept
that he does not agree with it, but I do not see what is difficult to understand about it.

**Tavish Scott**: With respect, I did not say that I agreed or disagreed with it; I am just trying to test the Government’s position. I will stop at that.

**Nicola Sturgeon**: I was just taking that from your mood music.

**The Convener**: John Lamont wanted to get involved in this discussion as well.

**John Lamont**: I agree with the Government’s position on preventing prisoners from voting.

**Nicola Sturgeon**: Well now then! [Laughter.]

**Tavish Scott**: That is all I need to know.

**Nicola Sturgeon**: That was a joke, Tavish.

**John Lamont**: You say that the legal position is clear. Has the Government taken legal advice about the possibility of a prisoner who is prevented from voting challenging the outcome of the referendum? If it has, can you make that advice available to us?

**Nicola Sturgeon**: I will not rehearse all the usual points about legal advice. I will say only that we have taken account of all the legal considerations and arguments in coming to the position in the bill. The legal position is clear, not just in terms of the wording of the particular clause in the European convention on human rights but in the case law that has resulted from that, which has made clear—over the period that the cases have been discussed—that it applies to elections to Parliaments and legislatures but not to referenda.

**John Lamont**: Lastly, section 3/(3)/(b) of the bill excludes from voting “a person detained by virtue of a conditional pardon”.

Can the Deputy First Minister tell me the last person in Scotland who was detained under such a conditional pardon?

**Nicola Sturgeon**: No, I cannot. If the member can, I would be happy to hear who it was. Was it a Conservative MP by any chance? No. [Laughter.]

**John Lamont**: No. It might have been Oscar Slater.

**The Convener**: We will move on. I will come back to Patrick Harvie’s question about participation, but first Rob Gibson wants to ask more generally about guidelines for debates and so on in schools.

**Rob Gibson (Caithness, Sutherland and Ross) (SNP)**: We discussed the registration process, participation and voting with the EROs, the directors of education and the Electoral Commission. Will the materials that the Government produces for information about registration, the process or the issues be made available for people to see at an early stage?

**Nicola Sturgeon**: The Electoral Commission will provide materials for raising awareness of the process of registration and the process of the referendum, so it is for the commission to discuss with you exactly what process it will go through. The Government will not be producing that information.

**Rob Gibson**: I presume that the Government will be producing material about the referendum. We had a discussion about balanced material being available in schools on that subject. Obviously people will have different points of view, but the Government has a role. I want to tease out whether the Government is providing material.

10:45

**Nicola Sturgeon**: The main publication that the Government will produce is the white paper, which will set out the case for Scotland being independent. As the Government, we will try to ensure that there is as wide an appreciation, knowledge and understanding of the white paper as possible among everybody who is entitled to vote in the referendum. Those on the other side of the campaign, who are arguing against independence, will want to ensure that the information that they put forward is disseminated as widely as possible.

The Electoral Commission will not be giving details on the case for or against independence; its information will be about the process of the referendum. It will be for campaigners on the respective sides of the debate to put forward their case. Speaking for the Government—I am not here to speak for the broader campaign of which I am part, but I am sure that this is the case for it, too—we will be doing our level best to ensure that that information is accessible to all potential voters, including those in the younger age group.

**Rob Gibson**: I have a point about material being made available to people in the younger age group in their native languages. You have mentioned that, convener, and I assume that the Deputy First Minister is agreeing that materials from the Government will be in a variety of languages and will be expressed at a level such that they can be understood by 16 and 17-year-olds.

**Nicola Sturgeon**: We will certainly take great care—in language provision and in the way in which we present the material—to make it as accessible as possible to everybody who has the right to vote in the referendum.

**Tavish Scott**: Responding to Mr Gibson, I think that the Deputy First Minister has said that the
Government will provide the white paper to everyone who is eligible to vote. If I have got that wrong—

Nicola Sturgeon: I did not say that. I said that we would be working hard to ensure that it is accessible to people. The form in which we will do that has not yet been decided. As I think the record will show, I did not say that we would—

Tavish Scott: I was not trying to say that you did—I was just trying to clarify what you did say.

Nicola Sturgeon: I hope that I have done that.

Tavish Scott: Are there any details of how the white paper will be made available, or will it just be through the normal publication of Government documents?

Nicola Sturgeon: It will certainly be available through the normal processes of Government publications being made available. We will consider whether there is more that we can do to make it as accessible as possible. Parliament will have the opportunity to know what we propose in due course. We have not made any final decisions about that.

Tavish Scott: I quite understand that. The point is that it will be a Government publication, as opposed to a campaign document from either side of the referendum debate. Could the Deputy First Minister clarify how that factors into the overall assessment that the Electoral Commission will have to make about publications being made available to people in respect of campaign material?

Nicola Sturgeon: I do not think that the Electoral Commission has the job of assessing whether the campaign on either side of the debate is balanced or whether people have adequate information. That is not part of the commission’s role.

The Electoral Commission has said in its report on the question that it hoped that both sides would manage to come together—I am paraphrasing—and give a joint statement about the process that would follow either outcome. It is not the job of the Electoral Commission to assess the information that either side of the campaign puts forward.

Tavish Scott: That is a fair response, and I completely accept it, but the document will be provided by the Government—it is a Government white paper. By definition, it is a document that will make the case for independence, with the full power and money of the Government behind it, including how it is sent out and how it is used. Would that be fair to say?

Nicola Sturgeon: We have a responsibility to use taxpayers’ money responsibly and appropriately. That will apply to the white paper as it does to anything else that the Government publishes. We will balance that consideration with the view coming from both sides of the debate that people need to be as informed as possible. Not a day goes by when I do not get told by those on the other side of the debate that the Government needs to provide more information and more answers to various questions. We will certainly endeavour to do that.

The Convener: Can we get back to the bill itself now? Do you have any further questions at this point, Rob?

Rob Gibson: Not at this point.

The Convener: Patrick, you wanted to raise issues about participation—in relation to both registration and turnout, I think.

Patrick Harvie: Yes, on registration and turnout—and I hope that this be a slightly more consensual area of questioning than the previous one.

I would like to hope that we all want a high level of participation by 16 and 17-year-olds and young voters in general. On a few occasions, the Deputy First Minister has mentioned a desire for all of them to participate once they are registered.

The committee has heard evidence from smaller jurisdictions—Jersey, Guernsey and the Isle of Man—that have already reduced their voting age to 16. In response to that evidence and to other matters, has the Government looked at those or other jurisdictions to try to figure out what works in driving up turnout, particularly among young voters, given the newness of the process to them and the opportunity to engage with them through educational institutions in a proactive way that is not possible with older voters?

Nicola Sturgeon: The short answer is yes: we have looked at other jurisdictions. We have also looked at the limited experience in Scotland of extending the franchise to 16 and 17-year-olds for the pilot health board elections and Crofting Commission elections. I am not saying that those elections tell us very much, but we have looked at all that.

It is the Electoral Commission’s role to raise awareness of the registration process and the referendum, and core to that exercise will be ensuring as wide an understanding and appreciation of the right among 16 and 17-year-olds as possible. Clearly, both sides of the campaign will have an obligation and an interest in getting young voters registered and keen to participate in the referendum. I am sure that both sides are already thinking carefully about how to do that—at least, I know that one is.

I am not at all complacent about the issues. None of us with experience of elections could be
complacent about turnout among any age group. However, my anecdotal experience from speaking to people about the referendum leads me to think that there will be a high turnout and that it will span all age groups. That should not mean that we take our foot off the pedal and do not work hard, but that is my strong impression based on the conversations that I have had.

Patrick Harvie: I would like to think that we all hope that that it is true—I certainly do. We have heard evidence that some really good, innovative and creative work has happened in some schools, but members with constituency and regional responsibility will know that other schools do not get particularly involved in mock elections or other such processes. Is there room in the bill to place a duty on local authorities to promote participation in the provision of education?

Nicola Sturgeon: I am certainly happy to give that consideration. However, the Electoral Commission will have a statutory responsibility to raise awareness and understanding of the voter registration process. To fulfil that statutory obligation, the commission will need to work with a range of organisations, including local authorities and schools, to ensure that they do what is required of them.

Patrick Harvie: We have heard, in relation to electoral activity, that some really good creative work happens in schools where headteachers choose to allow people in. Surely we would like a consistent approach to promoting participation in all schools.

Nicola Sturgeon: I agree, so I am happy to consider the proposal. I will come back to the committee in due course to tell you the outcome.

John Lamont: My question also relates to the participation and engagement of young people. I am conscious that many or all of them will still be at school doing studies and exams. What is the Government’s view on ensuring that the referendum is not too much of a distraction and that a balance is struck to ensure that they can do their exams and work and not be distracted by the vote?

Nicola Sturgeon: It might be down to all of us to ensure that that is the case. I take the slightly different view that, actually, if young people are interested and engaged, it is good for their development and for how informed they are as citizens, which can only be good for their educational experience and outcomes. Perhaps I look at the issue more from a glass-half-full perspective.

Notwithstanding Patrick Harvie’s point about consistency, it is ultimately for headteachers and education authorities to determine what happens in schools. From my experience in my constituency, I know that schools engage young people on the issues very well, although I accept Patrick Harvie’s point that that is not a universal or general statement. In some respects, right now, primary schools do that work even better than secondary schools, which is perhaps an issue that we have to think about.

I am quite optimistic that the right foundations are there to get the right balance and ensure that young people are engaged. I think that there will be a natural level of interest—I know that there is interest at the moment—and we have to ensure that the right steps are taken to capitalise on that. That is why the role of the Electoral Commission will be so important.

The Convener: Stuart McMillan wants to go back to an issue that was raised earlier.

Stuart McMillan: Deputy First Minister, you mentioned that the registration form is out for testing. I have raised an issue in the past in committee regarding the colour of the paper. I raised the issue for two reasons. First, when the form goes into a household, it is important to make it easy for 15-year-olds to fill out the correct form. Secondly, we need to consider people who have a visual impairment and people who are dyslexic. The word “accessibility” has been used a number of times today. Will you consider making the registration form a different colour to ensure that there is the widest possible accessible opportunity for 15-year-olds to register to vote?

Nicola Sturgeon: I am happy to consider that. The testing of the form will give us a lot of pointers about whether and how we could improve it, but we are happy to listen to comments outside that process as well. If there is a view that any particular aspect of the form could be improved, we will consider it. That includes changes to colour, if they would help people with visual impairments.

Stuart McMillan: Thank you.

John Lamont: Throughout this morning’s discussion, I have been reminded of the important role of the Electoral Commission. Is the Government satisfied that the Electoral Commission has sufficient funding to allow it to do the job that we all expect it to do?

Nicola Sturgeon: Yes, and I believe—I will be corrected if I am wrong—that it has said in evidence that it is satisfied that the financial provisions that we are making for it are adequate as well.

The Convener: I have one final question. Steve Sadler might need to help, as it is on a technical issue. You have confirmed that an amendment will be lodged to deal with section 13 issues. Do you have any idea of any other amendments that you
might want to tell us about at this stage? That would let us begin to think about them.

Nicola Sturgeon: There are a few technical things, and I am happy to give the committee advance notice of them in order to get your views, if possible. I have given agreements to consider certain things today, but there is nothing particularly substantive that we are planning at this stage.

The Convener: In that case, I thank the Deputy First Minister and her team for giving evidence on the franchise bill today. We are grateful.

10:57

Meeting continued in private until 11:15.
Children in Scotland strongly supports the extension of the voting franchise to 16 and 17 year olds and any measures which facilitate voting and result in greater and more broadly representative participation in the electoral process.

We would endorse the submissions made to the Committee by our colleagues at the Scottish Youth Parliament and the National Union of Students who raise concerns and suggestions as to the practical application of the extension of the franchise.

In particular we would like to see support being given to schools and colleges to help teachers approach the issue of voting and the referendum in a positive and unbiased way. Some guidance may also be useful to deal with situations where some students can vote and others cannot - the cut off date of 18 September 1998 will mean it is likely a number of students in a class will not be able to vote whereas others in the same school year will.

We hope the Committee will be able to devote time in its meetings to explore the various issues, both legal and otherwise, surrounding the extension of the voting franchise to 16 and 17 year olds.

Sara Collier
Policy Officer
3 April 2013
Voting rights of prisoners and the independence referendum

I have noted the question of voting rights for prisoners at the referendum was discussed in the Committee last month. I have also seen the evidence submitted by the Howard League for Penal Reform in Scotland, Prison Reform Trust, SACRO, Professors Fergus McNeill and Mike Nellis to the Committee, about the proposal from the Scottish Government to prevent all of convicted prisoners detained in prison on 18 September 2014 from voting in the referendum on independence.

I believe that this question needs to be properly scrutinised and debated as the Scottish Independence Referendum (Franchise) Bill passes through the Parliament between now and June.

As a society, when wrong has been done, what we require is reconciliation and restoration of relationship with our neighbours. The criminal justice system is a vital part of this. At its heart it should reflect the aim of restoring broken relationships between the offender and the community and of discouraging law breaking. Punishment does not seek to deny human dignity to anyone, but to restore it. It should also effect reconciliation between the offender and his or her victim and society at large, wherever this is possible, and incorporate forgiveness. Forgiveness, repentance and the repair of broken relationships, need to be made possible for the promotion of individuals’ and social well-being. The result can be a positive change on the offender’s part, which depersonalising punishment would not have achieved.

Punishment alone will not normally prevent a person from re-offending; punishment informs the offender that they have done wrong, but gives no guidance as to how they could or should change. What is required are those things that reinforce the offender’s sense of personal responsibility and give back to them some real change to change.

If prisoners are engaged in paying a debt to society, then surely it is vital to ensure they remain part of society.

I have also noted the recent debate around the European Court of Human Rights decision on prisoner voting rights in the United Kingdom. The Church and Society Council is bringing a report on Human rights to the General Assembly this year which we state that human rights cannot be only for those whom we affirm and approve. To mean anything significant they need to be for the unpopular, for the dispossessed and indeed those who do not respect the rights of others. Their very essence is what is due to our neighbor on account of “common humanity”; this is their moral basis.

I would therefore like to urge the Committee and indeed the whole Parliament to consider carefully the submission from the Howard League for Penal Reform and others, and I add my support based on the points I have outlined above. Scotland
has an opportunity to offer a different example; the referendum debate and process give us the chance to imagine a different future.

Rev Sally Foster-Fulton
Convener

9 April 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

CHARLES CLEGG

I am writing in response, albeit somewhat late, to the proposals of the Scottish Independence Referendum (Franchise) Bill to extend the franchise in the forthcoming referendum to sixteen and seventeen year-olds on the advice of my local M.S.P.

If it is of interest, I myself am seventeen years old and in my final year of high school. I would like to express my opposition to the plans to include sixteen and seventeen year-olds in the franchise for the referendum. To explain my point, I would like you to consider why we have chosen to set the voting age at eighteen. It is true that in an ideal world, only those most competent to vote would do so. Understandable constraints mean that this is not the case; so we must reflect competence in age, and, thus far, that age has been eighteen: the same age as the age of majority. My argument is not that sixteen and seventeen year-olds are incompetent to vote – a good few of them are more competent than many over the age of eighteen – but that, as unscientific as it is, an age must be decided to reflect an electorate’s competence and the age at which we in Scotland define adulthood is sufficient – having, since nineteen sixty-nine, proven itself to be neither broken nor in need of fixing.

I appreciate that to the defence of the status quo there exist several popular and prominent counter-arguments which I would now like to address. Firstly, it is often argued that if one can marry, join the armed forces et cetera at sixteen, one should be able to vote. These statements are indeed true but not relevant to the situation: one can use an air-rifle unsupervised at fourteen; but not purchase cigarettes or alcohol until the age of eighteen. The age limits for rights and responsibilities unrelated to voting are inconsistent and mercifully unconnected – as such they should have no bearing over how we set the voting age.

Similarly, defenders of the status quo are often faced with the ‘no taxation without representation’ argument about voting rights: that sixteen and seventeen year olds can pay tax, therefore, they should be able to vote. Could I please point out to the committee that ‘no taxation without representation’ is not constitutionally enshrined in any part of British or Scottish law. As snazzy as the phrase sounds, it is, when applied to this situation rather than the eighteenth century North American colonies, meaningless: plenty of organisations are taxed without any formal democratic representation, as are various felons, peers and foreign nationals resident in the U.K. and Scotland.

Finally, I would like to speak against the idea that allowing sixteen and seventeen year-olds to vote creates more democracy and therefore makes the world a better place. It is indeed true that we should strive for better democratic representation; but that representation is only worthwhile expanding if it expands to those most competent to do so; as I have stated, I do not believe a voting age of sixteen reflects this better than the current voting age. If more voters make a better democracy, this argument could be well applied to extending the franchise to twelve year-olds or the mentally incapacitated.
To conclude, I appreciate that my views are in the minority and I quite realise that there are a great many people whose minds will not be budged by such arguments as I here present. Having said that, I would like to leave the committee with this to consider: why has there not been greater public consultation on this matter? This matter being one that, it could be argued, deserves a referendum in itself. I am sure that people on either side of the independence debate would agree that the referendum has been used as a cloak to sneak in this reform without the consideration that it is due.

3 April 2013
I have seen the evidence submitted by the Howard League for Penal Reform in Scotland, Prison Reform Trust, SACRO, Professors Fergus McNeill and Mike Nellis to the Referendum (Scotland) Bill Committee of the Scottish Parliament, about the proposal from the Scottish Government to prevent all of convicted prisoners detained in prison on 18 September 2014 from voting in the referendum on independence.

I agree that prisoners' right to vote is an important issue on which Scotland should reach its own conclusions and which should be properly scrutinised and debated as the Scottish Independence Referendum (Franchise) Bill passes through the Parliament between now and June. [In particular, we support the view put forward in the submission to the Committee that Scotland should take this opportunity to follow the example of most European democracies and if practically possible enable at least some convicted prisoners to vote in September 2014.] I hope you will support that position.

2 April 2013
1. The Electoral Commission is an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections and referendums. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation and no undue influence.

2. For council elections in Scotland we undertake a number of roles relating to the administration of the elections for which we report directly to the Scottish Parliament.

3. For the independence referendum we have provided advice to the Scottish Government during the drafting of legislation and we will continue to offer advice and assistance as their proposals develop at the same time as setting out our views on the bill to Parliament.

General Comments

4. This submission sets out our current views on the Scottish Independence Referendum (Franchise) Bill (hereafter referred to as the ‘Referendum (Franchise) Bill’). Some of the provisions related to the electoral registration of 16 and 17 year olds for the purposes of the referendum will be legislated for in the Scottish Independence Referendum Bill (hereafter referred to as the ‘Referendum Bill’). This includes, for example, the rules on who can access the Register of Young Voters. We therefore offer these comments subject to the qualification that we may review them following our detailed consideration of the Referendum Bill.

5. The franchise for the independence referendum is a matter for the Scottish Parliament to determine and we take no position on who should, or should not, be included in the franchise. Our priority is that there should be no barriers to participation in the referendum by all eligible electors, and that the registers used to administer the poll are complete and accurate, regardless of the particular franchise in use. The purpose of this written evidence is to help ensure that these principles are achieved in the legislation.

6. In our March 2012 response[^1] to the Scottish Government’s consultation, ‘Your Scotland, Your Referendum’, we expressed our concern that if the Scottish Government’s policy intention was to lower the voting age to 16 it might not be achieved via the proposals set out at that time. We welcome the clarity provided by the Referendum (Franchise) Bill in seeking to ensure that all those who are 16 or over on the referendum polling day will be able to vote.

Commencement – applications to register

7. The intention of the Scottish Government, as set out in paragraph 15 of the Policy Memorandum that accompanies the Referendum (Franchise) Bill, is for the young voters’ canvass form to be distributed to households at the same time as the annual canvass form, in order to “keep administration to a minimum and help ensure that the registration of young voters is as streamlined as possible”.

8. The UK Parliament is currently legislating for the next annual canvass in Scotland to commence no earlier than 1 October 2013 (with publication of the new register on 10 March 2014). However, Clause 13(2) of the Referendum (Franchise) Bill as currently drafted states that no application for registration in the register of young voters may be made before 1 December 2013. This provides for the possibility of a period of up to two months between the issuing of the canvass forms and the first date at which an application for the young voters’ register can be made. Any young voter’s canvass form returned to the Electoral Registration Officer (ERO) in this period could not be accepted and the applicant would have to apply again after 1 December.

9. We understand from the Scottish Government that the date of 1 December 2013 in Clause 13 is based on previous planned timings for the introduction of individual electoral registration by the UK Government, and that their intention is to amend this date to bring it into line with the first date at which the canvass would be commenced by any ERO in Scotland (either 1 October 2013 or any such later date which might be agreed with Scotland’s EROs). This amendment will be necessary to minimise the risk of young voters’ applications to register being rejected due to a misalignment of the date of potential first issue of the canvass forms and the date by which the first application may be made to the young voters register.

10. The Commission and other organisations concerned with the registration of 16 and 17 year olds will be raising awareness, through the media and other stakeholders, to support the canvass. This will focus on encouraging young people and their parents to take appropriate action when they receive their canvass form to ensure young voters are included on the register. The impact of this activity will be most effective if all EROs in Scotland began the dispatch of canvass forms on the same date or within the window of one week, to ensure that publicity messages reach people at the point at which they are best able to act on them. We encourage the Scottish Government to seek agreement with Scotland’s EROs on a suitable timeframe between the date of the issue of the first and last canvass forms in Scotland.

Date of the referendum on the young voters canvass form

11. The canvass form included in Schedule 2 to the Referendum (Franchise) Bill includes space to include the date of the referendum once it is made known. This will be a tool to enable young people to establish whether they will meet the age qualification for the referendum and therefore whether their details should be included on the canvass form. However, the date of the referendum is provided
for in the Referendum Bill, which is not anticipated to receive Royal Assent until December 2013. This means that the young voters’ canvass forms will need to be printed and issued to households before the date of the referendum has been settled in legislation.

12. We understand the reason for providing the date of the referendum poll in the young voters registration form and believe this would be beneficial to young voters and their parents in establishing their eligibility for inclusion on the form. However, we would wish give further consideration to this issue once we have seen the results of the Scottish Government’s user testing for the young voters canvass form along with the provisions in the Referendum Bill for setting the date of the poll.

Access and supply of the register

13. In our January 2013 response to the Scottish Government’s consultation on its draft proposals for a Referendum Franchise (Scotland) Bill, we noted that the proposals raised several issues about campaigners’ access to the electoral register which would need to be addressed. These included ensuring that all registered campaigners at the referendum are able to comply with their obligations to check the permissibility of donations and loans, and are able to put their views to voters. At referendums held under the Political Parties, Elections and Referendums Act 2000 (PPERA) the relevant electoral register is made available to all those referendum campaigners that register with us. There are strict legal controls on campaigners’ use of the register. They can only use the data in the register for two purposes – to campaign in the referendum, and to check that individuals giving donations (and loans where regulated) are on the register, and are therefore permissible donors under PPERA.

14. We now understand that the Scottish Government intends that individuals will only be permissible donors in relation to the referendum if they are included in the register of local government electors, and that this register will be made available to all registered campaigners at the referendum. Campaigners will therefore be able to check that donations and loans they receive from individuals are permissible. This will address the issues about permissibility checking that we highlighted in January 2013.

15. Paragraph 18 of the Policy Memorandum that accompanies the Referendum (Franchise) Bill states that the merged register containing details of voters on both the Register of Young Voters and the register of local government electors will be made available to the designated lead campaigners, but not to other registered campaigners. This is to allow the lead campaigners to send every voter or household a postal communication setting out their position on the referendum. However, if the lead campaigns can only obtain access to the merged register after they are designated – a step which under the PPERA timetable would take place between four and six weeks after the start of the sixteen week referendum period – they may find it difficult to process the data of

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3 Our views on the Referendum Franchise (Scotland) Bill paragraph 1.24
those voters who are not included in the register of local government electors in good time to issue postal communications to them before postal votes are distributed.

16. The proposed restrictions on availability of the merged register will also mean that registered campaigners other than the designated lead campaigners will not have access to the names and addresses of those voters on the Register of Young Voters. In our view it is important, if possible (see below), that all those people and organisations that register as campaigners at the referendum should have access to the contact details of all those registered to vote at the referendum. This would enable campaigners to put their arguments to all voters, in the same way as campaigners at PPERA referendums, and political parties at elections. It would therefore help both voters and registered campaigners to participate in the referendum.

17. We recognise that the Scottish Government proposes to limit access to the contact details of those on the Register of Young Voters. We understand this is in order to keep the details of those on that Register as secure as possible, given the need to treat data on young people sensitively. We fully support this policy intention and have previously stressed to the Scottish Government the importance of ensuring that any child and data protection associated with registering young people to vote are discussed with the appropriate organisations and experts.

18. We do, however, have some questions about the proposals. For example we would welcome clarification as to why, if there are data protection issues associated with giving access to the register to some registered campaigners, this might not also apply to the designated organisations.

19. We would therefore like to better understand the reasons for this decision and will be discussing the policy in detail with the Scottish Government. Once we have done this we will advise the Committee if we have any concerns about what is proposed.

Transition to individual electoral registration (IER) in Scotland

20. The Electoral Registration and Administration (ERA) Act 2013, recently passed by the UK Parliament, provides for a fundamental change to the registration of electors in Great Britain. The UK Government’s current proposals envisage that from summer 2014 the transition from household to individual registration will begin, with the aim of the transition to IER being completed in time for the 2015 UK Parliamentary elections.

21. We support the introduction of IER because we believe it will address vulnerabilities in the current electoral registration process. It is also right that people are able to take individual responsibility for their own vote. However, it requires careful planning and implementation and needs to be done in a way that
puts the voter first and does not present any barriers to voters’ participation in the independence referendum.

22. We are aware that discussions are on-going between the Scottish Government and the Cabinet Office of the UK Government on the practical implementation of the transition to IER in Scotland. As the date of the referendum is now known, we expect both Governments to identify and plan for any risks which arise from the coincidence of the referendum timetable and any planned IER transition activities. These discussions should also include Electoral Registration Officers and the Commission.

March 2013
Introduction

The Electoral Reform Society (ERS) Scotland welcomes the Scottish Government’s proposal to allow 16 and 17 year olds to vote in the independence referendum in 2014. ERS is a supporter of votes at 16 as we believe that engagement of 16 and 17 year olds in important political debates is vital for the future health of our democracy.

We recognise that the franchise in most public elections is a reserved matter. Once Scottish young people have voted in the referendum we believe that it becomes illogical to deprive 16 and 17 year olds in other parts of the UK, or indeed in Scotland in elections other than the referendum, the opportunity to vote in public elections.

Our original response to the Scottish Government ‘Your Scotland, Your Referendum’ consultation expressed concern about the plans to provide only for ‘attainers’ to vote rather than all 16 and 17 year olds. We felt this risked creating a ‘false franchise’ that would both demean the intention behind the proposal and would potentially provide grounds for questioning the result of the referendum. We welcome therefore the change of approach in order to allow all 16 and 17 year olds to vote in the referendum.

We also agree that the most straightforward franchise is the residency requirement as used in Scottish Parliament Elections. This follows the precedent set by the 1997 referendum, and all other devolved issues. We acknowledge the interest of Scots or recent Scottish residents who now live outside Scotland in the referendum, but to change the definitions at this moment would mean re-assessing the franchise nationwide.

Having raised franchise issues in our consultation response, ERS Scotland was pleased to be invited to comment on an early draft of the Scottish Independence Referendum (Franchise) Bill at the beginning of 2013. Our response can be accessed on the ERS website.

We welcome the draft Bill as laid before Parliament on 11 March 2013. The majority of concerns we expressed in our submission to the Scottish Government have been met, and we are satisfied that the procedure laid out in the Bill for registering 16 and 17 year olds is the best way forward.

There are two issues we would raise with the Committee:

**Availability of the merged register.** One of the issues we raised at the start of the year was around clarity as to the availability of the merged register. We are
still unsure as to who will be able to access the register and would welcome clarification on this point.

**Ensuring registration and information is available to 16 and 17 year olds.** Included in our submission was a recognition that there are of course opportunities presented by the referendum to engage potential first time voters in citizenship education around a real event, and an actual act of voting much closer to their time in formal education. Safeguards are important to ensure any such education is not partisan; a consideration which we are confident Modern Studies teachers and other professionals can incorporate into their teaching. Any timidity in utilising these unique circumstances to encourage young people’s consideration of governance, citizenship and democracy through schools or project based initiatives would be a missed opportunity.

We would suggest that the Electoral Commission and EROs be encouraged to undertake innovative approaches to ensuring as high a registration as possible of 16 and 17 year olds. **We would welcome consideration of registration through schools, such as currently takes place in Northern Ireland.** Such a programme would ensure young people were aware of their right to vote in the referendum and could include the possibility for them to formally debate the issues amongst their peers.

If we can get young people registered early and into the habit of voting, we will not only see lasting improvements in turnout, but also lasting improvement in the health of our democracy.

**The Electoral Reform Society feels that the referendum offers Scotland the opportunity to embrace and nurture the aspirations of our young people,** and reassure them that their opinion is as valid and as important as that of those aged 18 and over. The understandable reticence of some young people who may feel under-informed should be challenged. Indeed, their willingness to admit they are uncertain, and ability to consider and listen to arguments before making a choice on polling day should be seen as an asset rather than a failing.

Juliet Swann
Campaigns & Research Officer
March 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

HARRY HAYFIELD

I am a resident of the county of Ceredigion in Wales and hope that the committee will accept a submission from a fellow Celt, if not a Scottish citizen. My submission concerns those people who have a direct Scottish heritage and yet, as the bill stands at the moment, are unable to take part in the referendum and comes from a personal contact.

I have a friend who lives in the town of Gettysburg in Pennsylvania in the United States and has a direct family relationship with the battle that took place in the town one hundred and fifty years ago this July (his cousin fought for the Union side and was killed). Going back, he believes that he has connections to the Scottish clans of the Highlands and believes that he is at least 10% Scottish and is a fervent supporter of Scottish independence and believes that he should have the right to vote in this referendum. I would therefore recommend that the committee put forward an awareness campaign overseas for people to register for a vote in the referendum on the understanding that only those with a direct link to Scotland (through family) may be permitted to vote in the referendum.

Harry Hayfield
Ceredigion
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

SUBMISSION TO THE REFERENDUM (SCOTLAND) BILL COMMITTEE ON BEHALF OF THE HOWARD LEAGUE FOR PENAL REFORM IN SCOTLAND, THE PRISON REFORM TRUST, SACRO, POSITIVE PRISON? POSITIVE FUTURES, PROFESSOR FERGUS MCNEILL AND EMERITUS PROFESSOR MIKE NELLIS

We welcome this opportunity to comment on the Scottish Independence Referendum (Franchise) Bill. Our comments are about the proposal to prevent convicted prisoners from taking part in the referendum.

Summary of our position

- This is the first time the Scottish Parliament will legislate on the franchise. Instead of simply reproducing the Westminster blanket ban on prisoners’ voting rights, there is an opportunity for the Parliament to put down a marker about the value placed on democratic rights and social justice in Scotland.
- We wish to highlight that almost all other European democracies recognise that voting is too hard-won a fundamental right to be lost automatically on imprisonment.
- We welcome the Scottish government’s recognition that too many people are sent to prison in Scotland. We therefore ask that the Committee seeks more explanation from the Scottish Government of why it believes that imprisonment on one particular date should be enough in all cases to prevent citizens from taking part in a vote which will determine the constitutional future of their country and may not be repeated in their lifetime.
- We would welcome a broad debate on whether to follow the model of many other developed democracies, and allow some or all convicted prisoners to vote. However, we realise that the timetable for the legislation does not realistically allow for that sort of debate.
- Noting that arrangements already need to be made for those held on remand, we believe that the Parliament should at least investigate and debate the potential for allowing prisoners serving short-term sentences to vote in September 2014. This would reduce the scale of arbitrary disenfranchisement, recognise the exceptional nature of this poll and signal that the unusually hard line taken by the UK Government on this issue does not reflect the values of the Scottish Parliament.

The proposals in the Bill

Section 3 of the Bill takes the existing UK ban on convicted prisoners voting in elections and extends it to the referendum. The documents accompanying the Bill mainly note the factual and legal position, with the commentary limited to stating only:

- “The ECHR ruling (and human rights case law) does not relate to referendums, and convicted prisoners will not be able to vote in the referendum irrespective of whether UK electoral law is amended to extend the vote to prisoners for parliamentary elections before the referendum in 2014.” (Policy Memorandum, para 13); and
• “It has been included in the Bill 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.” (Explanatory Notes, para 9)

Why Voting Matters

The universality of the franchise is important not only for nationhood and democracy. The vote of each and every citizen is a badge of dignity and personhood. Quite literally, it says that everybody counts.

The constitutional court of South Africa in a decision on prisoners’ voting rights (1999)

The creation of a universal franchise is one of the great political achievements of the past 150 years: we should never take it for granted. How much care we exercise when we decide to remove voting rights is a token not just of how we value fellow citizens, but of how much we value voting itself.

In many countries, the vote is seen as an inalienable right that cannot be taken away as a punishment. We think that is a powerful position which better represents the values of a modern democracy, than the current position in the UK, which has its roots in the mid-nineteenth century relationship between voting and property ownership, and the forfeiture of property for certain crimes.

As the Scottish Government is using this opportunity to amend the franchise in other ways, we would like it to give a fuller explanation of its decision to follow the UK blanket ban on prisoners voting.

The European Context

The UK is unusual in Europe in implementing a blanket ban. On the best available recent research (Briefing Note SN/PC/01764, from the House of Commons Library, December 2012):

• At least eighteen European nations, including Denmark, Finland, Ireland, Spain, Sweden and Switzerland, have no form of electoral ban for imprisoned offenders. Norway has provision for removing voting rights from certain offenders, but this appears never to have been used.
• In other countries electoral disqualification depends on the crime committed or the length of the sentence. In France, certain crimes are identified which carry automatic forfeiture of political rights and Germany’s ban extends only to prisoners whose crimes target the integrity of the state or the democratic order, such as political insurgents.
• Among the Council of Europe countries, those with which the UK keeps company in not allowing any convicted prisoners the right to vote are Armenia, Bulgaria, Estonia, Georgia, Hungary, Liechtenstein, San Marino and Russia: in at least two of these, consideration is being given to change.

The ban is often defended on the basis that those sentenced to prison have broken their contract with society, in a substantially different way from the many other offenders who are given non-custodial sentences or fines, and that this must mean
that all convicted prisoners should lose their vote while they are held in prison. **When so many of our fellow democracies reject that logic, we should stop and consider it again.**

The international position underlines that respecting the rights of victims, as we should, does not require the removal of the vote. We are not aware of any evidence that it functions as a deterrent. Indeed, we find the idea that prison should automatically carry a penalty of “civic death” at odds with the agendas for rehabilitation and reintegration that have been a welcome part of Scottish political debate in recent years. We believe effective rehabilitation is central to addressing the needs of victims of crime.

**The way we use prisons**

As a society, we expect the criminal justice system to punish offenders appropriately and reduce the risk of reoffending. Prisons will always be an essential part of that system.

Decisions about imprisonment are often not clear-cut, however: **there is not a straightforward divide between the types of offences that attract imprisonment and those that do not.** In 2011-12, 28 per cent of shoplifting convictions, 54 per cent of housebreaking convictions, and 61 per cent of convictions for serious assault and attempted murder ended in a custodial sentence (Source: *Criminal Proceedings in Scotland 2011-12*). The remaining cases were dealt with using non-custodial measures. Using their discretion, sentencers take many issues into account, including the welfare of the offender him or herself and what particular community sentencing options are available in the local area.

**Scotland’s rate of imprisonment is one of the highest in Western Europe** and over twice as high as the prison populations of the Nordic countries. The sentenced prison population is around 25 per cent higher than it was ten years ago (Source: *Prison statistics and population projections Scotland: 2011-12*). We applaud the commitment of the Scottish Government to reducing the use of imprisonment and support the view of the Cabinet Secretary for Justice, speaking in the Scottish Parliament on 20 September 2007:

> The Government refuses to believe that the Scottish people are inherently bad or that there is any genetic reason why we should be locking up twice as many offenders as Ireland or Norway. … We need to face up to some tough questions. Who are we sending to prison and why? … Scotland is undoubtedly a civilised society, but perhaps it relies on prison to do too much with too many… One study indicated that half of our prison population comes from 15 per cent of Scotland’s poorest council wards.

Speaking to the Justice Committee on 26 February 2013 the Cabinet Secretary has also highlighted that:

> In Scotland, we still have too many short-term prisoners. In Scotland, a higher proportion of offenders—15 per cent—are sent to prison than in England and Wales.
Prison statistics and population projections Scotland: 2011-12 notes that:

- the rise in the prison population over the past five years or so is set against a backdrop of relatively stagnant or falling levels of recorded crime …
- the sentenced population has increased by 3 per cent, reaching 6,578 in 2011-12. This is primarily due to marked increases in sentences between 3 months and two years …
- there are several drivers behind the increase in prison population over the past couple of decades [including] … the increase in the number of convicted offenders getting custodial sentences for lower level crimes and offences.

Inquiries into prisons and offending commissioned by the Scottish Government in recent years tell a consistent story about the over-use of imprisonment in Scotland, in particular for those from the most deprived and vulnerable backgrounds. This is not a new issue: similar points have been made by earlier inquiries.


Our review shows that we are not using prisons mainly to tackle serious crime …. [the] breakdown of data shows we use prison for a very different purpose. Instead of investing in a system that can secure stronger, safer communities, a series of problematic and largely unnecessary uses of prison are revealed…. [including]

- The short sentences problem - people who are more troubling than dangerous: Eighty-three percent of prison sentences in 2005/06 were for 6 months or less (and 57% of all prison sentences were for 90 days or less) …
- The warehousing problem - a place to hold the damaged and traumatised: Ninety percent of women in prison have drug and alcohol problems, and 75% have a history of abuse and major health problems. The picture for male offenders and young people is similar …

Research has demonstrated and defence lawyers are well aware that similar cases are sentenced very differently in different courts - and even by different judges in the same courts …

We calculate that it would be possible to reduce the prison population by as many as three to four thousand offenders who have not committed serious crimes and do not constitute a danger to the public …

From the Report of the Commission on Women Offenders (2012) established by the Scottish Government and chaired by Dame Elish Angiolini [our emphasis]:

There are women who should be in prison to protect the public and to mark the seriousness of their crimes. Even for these women, opportunities for rehabilitation should be available to reduce the likelihood they will reoffend and help reintegrate them back into the community …. For other women who have been repeatedly
convicted of committing lower level offences, their offending is often the result of significant underlying issues, such as drug or alcohol addiction and mental health problems, that could be better addressed in the community. 75 per cent of custodial sentences imposed on women are for periods of six months or less. Further analysis is required to gather the information which will help to explain the reasoning behind sentencers’ decisions.

Female prisoners have higher lifetime incidences of trauma, including severe and repeated physical and sexual victimisation, than either male prisoners or women in the general population.

The evidence is compelling that being sentenced to imprisonment alone should not be regarded as providing a strong enough justification for removing a person’s right to vote and that the current ban impacts disproportionally on the most deprived and vulnerable. As in other developed European democracies, if we are to remove the vote at all, we should set a higher bar.

The referendum as a special case

We agree with the Scottish Government that the referendum is different from general elections. We think that makes it more important for prisoners to have a vote in it, not less. The long-term significance of this poll provides a reason for including as many prisoners as possible in the process.

We also believe that in this context prisoners will be more aware than usual of being excluded from the democratic process and that, if this has any effect, it will reinforce their sense of being separate from, and rejected by, mainstream society. This will work against successful rehabilitation.

Specifically, we would like the Scottish Government to explain the policy reasons for preventing prisoners from voting in the referendum even if by then some have acquired voting rights in general elections. We note that in the current draft UK legislation, alongside the UK government’s preferred option of no change, there are other options extending voting either to all those serving sentences up to six months or up to four years.

Voting and rehabilitation

We welcome the current inquiry by the Justice Committee into purposeful activity in prisons and in particular the Cabinet Secretary’s recent statement to the Committee that:

the Scottish Government believes that offenders should be sent to prison as punishment, but that our prisons should also be about the rehabilitation and reintegration of offenders back into society as contributing citizens.

We do not want to suggest that voting by itself will make a large difference but we do believe that participation in democratic decision-making could contribute to the process of rehabilitation and send a strong message to prisoners that they remain part of wider society and have a stake in its future.

Arbitrary effects
Including those on short sentences in the ban on voting will create some unusually acute anomalies in the specific case of the referendum.

- Prisoners on short sentences are regularly released soon after conviction, due to the time they have already spent on remand. They suffer little or no impact on their voting rights. Others, where the courts have been content to grant bail, serve their whole sentence as convicted prisoners. Of two people convicted side by side and given the same sentence in the run-up to September 2014, the one granted bail could lose their only opportunity to vote on the issue of independence, while the other does not.

- More generally, during 2011-12, around 10,000 people received a prison sentence of less than 6 months (around one-third of those were sentences of less than 3 months) (Source: Scottish Parliament Question S4W-13083). On an average day only 433 of these were actually in prison serving their sentence, due to: the rapid turn-over of these prisoners; time already spent on remand; and early release (including on Home Detention Curfew; we understand prisoners on early release would be eligible to vote). On this pattern, there will be a significant element of arbitrary disenfranchisement among those serving short sentences during the year surrounding the referendum.

Practical issues

We understand that electoral administrators will face additional work taking forward other parts of the Bill. However, arrangements will anyway need to be made for prisoners on remand by electoral administrators and the SPS. Remand prisoners already make up around one-fifth of the prison population – typically around 1600 on any day – and can vote by post. At first sight, there is not an obvious reason why prisoners on short-term sentences at least could not be treated in the same way.

At a minimum, the practicalities of extending the vote to those on short-term sentences, which are defined in law as being less than 4 years, should be tested with the organisations involved and it should not simply be assumed that it would be unachievable.

On an average day in 2011-12, in addition to the 433 serving sentences of less than 6 months, 1822 prisoners were serving sentences from 6 months up to less than two years, and 1172 were serving sentences between two years and less than four years. (Source: Prison statistics and population projections Scotland: 2011-12)

There is also a case for seeking to include those nearing the end of a sentence and being prepared for release, although we realise that they may be harder to identify in law and would bring into the debate prisoners who have committed more serious crimes.

The relevance of ECHR

We recognise that ECHR compliance is a more significant matter for Scottish legislation than UK legislation, because of the limitations on legislative competence in section 29(2)(d) of the Scotland Act 1998, and that the Scottish Government has
stated that it does not believe that the ECHR applies to voting in referendums. While recognizing that it will be important for the government and the Parliament to satisfy themselves on the legal issues, **we want to make this as a moral case, not a legal one.**

**Conclusion**

We would ask the Parliament to consider allowing at least those prisoners serving shorter sentences to vote in the referendum.

We take encouragement from the recent words of the First Minister, at First Minister’s Questions on 7 March, that:

*The UK Government is out of step with civilised people across the Continent. Its attitude towards human rights is parochial and regressive. The European Convention on Human Rights fulfils a valuable role in Scottish society. An independent Scotland with a written constitution would allow us to assert the positive rights that people in a modern democracy expect to have and are entitled to have.*

There is an immediate opportunity with this Bill for Scotland to strike a distinctive course which brings us closer to the practice in other developed European democracies, rather than automatically following the model set by Westminster. We believe the question of voting rights for prisoners in the referendum is more, rather than less, acute than in general elections.

We hope that at minimum the Committee will find time to explore the issues raised and do whatever it can to ensure that when this legislation comes before the Parliament as a whole, this issue is fully debated, in a way which reflects positively on Scotland as a country which values democratic rights and social justice.

We would be happy to provide further material to the Committee or to appear before it.

**John Scott QC**  
Chair  
The Howard League for Penal Reform in Scotland

**Juliet Lyon CBE**  
Director  
Prison Reform Trust

**Tom Halpin**  
Chief Executive  
SACRO

**Pete White**  
Co-ordinator  
Positive Prison? Positive Futures

**Professor Fergus McNeill**  
Professor of Criminology and Social Work
Sources


Scottish Parliament Question S4W-13083: answered by Kenny MacAskill MSP on 8 February 2013


For further background on the history of the ban on prisoners voting, recent legal cases and international comparisons: Prisoners’ Voting Rights - Commons Library Standard Note SN/PC/01764, December 2012. An annex to the note provides information on the position in each of the Council of Europe countries http://www.parliament.uk/briefing-papers/SN01764

21 March 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL
SUPPLEMENTARY EVIDENCE FROM THE HOWARD LEAGUE FOR PENAL REFORM AND OTHERS

This supplementary note is submitted by the Howard League for Penal Reform in Scotland, the Prison Reform Trust, SACRO, Positive Prison? Positive Futures, Professor Fergus McNeill and Emeritus Professor Mike Nellis in response to the Committee’s questioning of the Deputy First Minister (DFM) on 28 March 2013.

We very much welcome the Committee’s interest in the subject of prisoners’ voting rights. We are disappointed that the Government remains firm in its wish to impose a blanket ban on prisoners voting in the referendum. However, we are pleased that the DFM recognised that there is a debate to be had on this issue and that it is right and proper for the Parliament to consider alternative views as the Bill proceeds. We look forward to having the opportunity to promote those alternative arguments as the legislation moves forward.

The DFM in her oral evidence expanded on the material provided with the Bill. We would like to respond to this.

Does the Bill remove rights?

The DFM emphasised several times that the Bill simply repeats the existing position and does not remove any rights; for example, “I am not removing a right, because the right does not exist at the moment. I am simply clarifying in the bill that we do not intend to give convicted prisoners in jail a right that they do not currently have”.

Points in response:

• Regardless of the historical precedent for banning convicted prisoners as a class from voting in elections and previous referendums, legislating to apply a ban in September 2014 will have the clear legal effect of removing the right to vote from individuals who would otherwise have been able to take part in a referendum of unprecedented constitutional importance. Many of the individuals who will be affected by the ban are not in prison at the moment, do not expect to be there in 2014 and are presently fully expecting to take part in this referendum. From their perspective, there will be a clear sense of an important right having been removed. We hope very much that the Government will acknowledge this.

• Even taking the Government’s argument on its own terms, it is our understanding that the Bill is explicitly drafted with the express purpose of removing any future voting rights convicted prisoners might otherwise have.

• We understand that Section 2(2)(a) by itself means that anyone legally incapable of voting in a local government election, which at the moment includes convicted prisoners, by virtue of Sections 2, 3 and 4 of the Representation of the People Act 1983, will also be unable to vote in the referendum.
• On that basis, Section 3 (and associated section 2(2)(b)) is unnecessary and will have a practical effect only if legislation at Westminster between now and the referendum confers voting rights on at least some convicted prisoners in local elections, as an extension of any changes made for national elections. As we understand, the whole purpose and effect of Section 3 is therefore to ensure that any new voting rights granted to prisoners between now and September 2014 do not apply to the referendum. This is consistent with the explanation of Section 3 given in the Policy Memorandum and the Explanatory Notes.

• Therefore, while it is technically correct to state that the Bill removes no existing rights from any class of citizens, unless our understanding is incorrect, the Bill is drafted specifically to ensure that if a future change to the law grants relevant voting rights to certain convicted prisoners, these future rights will then be removed for the particular purpose of the referendum.

It may be that our understanding of the drafting is not right and the Committee may therefore want to seek clarification of this point from the Government.

The precise operation of the sections 2 and 3 has implications for potential amendments to the Bill: it would be very helpful for the technical effect of each section and sub-section on prisoners’ voting rights to be put beyond doubt.

The importance of the Government’s view and the basis for it

The DFM was keen to emphasise that the decision will rest with the Parliament rather than the Government, noting that “Parliament will have a debate and Parliament will decide”.

However, the Government is promoting the Bill and has a majority in the Parliament. We believe it therefore remains important for the Government to set out fully its own reasoning.

The DFM set out the rationale for the government’s position as: “People who do not commit crimes and do not get sent to jail will have the right to vote. That is a pretty simple principle…. If someone commits a crime that results in them being sent to jail, they forfeit their right to vote. I do not believe that a case has been made for changing that principle for the referendum … if someone commits a crime and the judge sees fit to send them to jail, they should forfeit their right - well, they do not have the right to vote in those circumstances just now, and that should continue to be the case.”

We still hope that the Government will feel able to address directly the points made in our initial evidence, in particular:

• The argument that the right to vote is more important, not less, in the referendum than in other contexts and explain why it is so determined to remove voting rights in the referendum even if by September 2014 at least some convicted prisoners have acquired voting rights in elections.
• The essential relationship between voting and citizenship and the potential contribution of participation in voting to successful reintegration into the community

• The potential for exclusion from the referendum contributing to prisoners’ sense of exclusion from wider society, working against successful rehabilitation.

• The disproportionate effect of the ban on those from the most vulnerable and deprived backgrounds.

• The fact that the vast majority of those who commit crimes will be unaffected by the ban, as they serve their sentences in the community, and that the distinction between offences which attract prison sentences and those which do not is often not clear-cut.

• The unusually acute anomalies that will arise in applying the ban at the referendum, particularly in relation to those serving short sentences.

• Why for this particular policy, the historic position in the UK should be relied on so heavily as an argument in itself against change.

• Why it rejects the approach of the overwhelming majority of European countries, which allow at least some prisoners to vote, and prefers a blanket ban for the referendum which will leave Scotland isolated in European terms and potentially even, by then, in UK terms.

We are grateful for this opportunity to submit additional evidence and hope it may be helpful to the Committee in identifying issues that could benefit from further consideration or clarification.

John Scott QC
Chair
The Howard League for Penal Reform in Scotland

Juliet Lyon CBE
Director
Prison Reform Trust

Tom Halpin
Chief Executive
SACRO

Pete White
Co-ordinator
Positive Prison? Positive Futures

Professor Fergus McNeill
Emeritus Professor Mike Nellis
Professor of Criminal and Community Justice
University of Strathclyde

12 April 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL
INTERNATIONAL ALLIANCE FOR YOUTH COALITION

The International Alliance for Youth Coalition supports the Scottish Government’s efforts to address the issue of young franchise who would normally not be eligible for voting on such important matters. It is the right step in providing a voice to such young people who would form the future generations of Scotland and have all the right to vote for its future and how they wish to see it.

The IAYC presents the following suggestions to the Hon. Members of the Referendum Committee and hopes that these would be of value to the committee members.

Suggestions recorded for the text of the bill as introduced:

1. Section 2(1)(a)
   Reads, ‘…aged 16 or over…’

   IAYC believes that this is not in conformity with what the Call for evidence describes the bill to be. The Call reads, ‘register eligible under-16s who will be 16 or over by the date of the referendum’.

   A rewording

2. Section 4(2)(a)
   Reads, ‘…appearing to the registration officer…’

   IAYC believes that while the criteria has been defined in Section 2, the wording appear does not allow objectivity and pursues subjective nature, which could mean that a young person, who would be eligible, not appearing to be a valid voter would fail to entertain himself.

Wajahat Nassar
President
March 2013
Introduction

The Law Society of Scotland aims to lead and support a successful and respected Scottish legal profession. Not only do we act in the interests of our solicitor members but we also have a clear responsibility to work in the public interest. That is why we actively engage and seek to assist in the legislative and public policy decision making processes.

This response has been prepared on behalf of the Society by members of our Constitutional Law Sub-Committee (‘the committee’). The Sub-Committee is comprised of senior and specialist lawyers (both in-house and private practice).

General Comments

Section 1 - Application to independence referendum

No comment.

Section 2 - Those entitled to vote in an independence referendum

No comment.

Section 3 - Offenders in prison etc. not to be entitled to vote

This provision might be challenged -- some solicitors are quoted as being ready to act on behalf of aggrieved clients presumably on the basis that the exclusion of prisoner voting is contrary to the spirit of the European Convention on Human Rights (ECHR). In order to be competent under the Scotland Act 1998 the bill must comply with ECHR.

Prisoner voting cases have all been based on alleged breaches of ECHR Article 3 Protocol 1 (A3P1) which states,

'The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.'

A3P1 does not govern voting in referenda but only in elections for the 'choice of the legislature'. Accordingly the European Court of Human Rights jurisprudence relating to prisoner voting rights, Hirst v United Kingdom (No.2) [2006] 42 EHRR 41 ,Greens & MT v United Kingdom [2012] ECHR 1826 and the domestic law applying under the Human Rights Act 1998 eg in Smith v Scott 2007 SC 345 do not apply to the referendum.

The right to vote in referenda has been considered by the European Commission on Human Rights in 1975 in the case of X v UK App No 7096/75. The Commission
came to the view that the UK referendum on continued membership of the EEC did not fall within the scope of A3P1 because the referendum did not concern the choice of a legislature. Accordingly it follows that the right to vote in the referendum could not be derived from A3P1 either and that a prohibition on voting by prisoners in the referendum was not contrary to the Protocol 1. A similar result was reached in 1996 in the case of Bader v Austria (1996) 22 EHRR CD 213 and Neidzwiedz v Poland (2008) 1345/06.

Section 3 appears to be on the basis of the case law compliant with the Convention. That, of course does not mean to say that the Section may not attract a challenge but such a challenge on the basis of the current law is unlikely to be successful.

Section 4 - Register of young voters

No comment.

Section 5 - Those entitled to be registered in the register of young voters

No comment.

Section 6 - Applications of enactments relating to the register of young voters

No comment.

Section 7 - Declaration of local connection: additional ground for young people

No comment.

Section 8 - Register of young voters: canvas form

No comment.

Section 9 - Register of young voters not to be published

This section ensures that there should be no publication of the register of young voters.

Section 9(3) allows publication of the register in limited circumstances but there is no detail of those circumstances in the bill. It will be important for the Referendum Bill to specify clearly to whom the register may be disclosed and to ensure that the interests of those affected by such disclosure should be properly safeguarded.

Section 10 - Registration officers’ expenses

No comment.
Section 11 - Power to make supplementary etc. provision and modifications

This section enables Scottish Ministers to make orders by affirmative procedure which will amend the Act. Section 11 (2) and (3) are very wide and there is no requirement on Scottish Ministers to consult before making such an order.

Great reliance will be placed on the Parliament to scrutinise the need for the exercise of this power and the provisions made in any order under this power during the affirmative procedure for such an order.

Section 12 - Interpretation

No comment.

Section 13 – Commencement

No comment

Section 14 - Repeal

This section provides for the repeal of the Act on 1 January 2015. This will ensure compliance with the Scotland Act 1998 (Modification of Schedule 5) Order 2013.

Section 15 - Short title

No comment.

Schedules 1 and 2

No comment.

Michael P Clancy O.B.E.
Law Reform
The Law Society of Scotland
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

CV MARTIN

I was born in the Simpson Memorial Hospital, Edinburgh and thus possess a Scottish Birth Certificate and in common with many serving and ex Members of H.M. Forces do not reside in Scotland.

Preliminary proposals would appear to deny us a vote in the coming Referendum for Scottish Independence.

Non-resident French people have a right to vote for their President but not for their Deputies (MPs). I consider that the referendum should be extended, at least, to other Scots born citizens within the European Union as this matter is of far reaching consequences.

April 2013
I was born in Greenock in 1947. My father, grandfather and great grandfathers were ship builders. My father had to leave Greenock when the shipyards had no work. He took me with him in 1958? I had no choice in this.

I've got absolutely no choice in having to live in Devon either because I've got a husband and family here.

I have never ever given up being Scottish and I feel that it's my birthright (probably along with a few others as well) to be able to vote in this election.

I feel sadly and badly disenfranchised and would wish you to include our rights to vote as well.

March 2013
I write in response to the call for evidence in respect of the Referendum (Scotland) Bill, as I would like the opportunity to put forward my views.

I have seen the evidence submitted by the Howard League for Penal Reform in Scotland, Prison Reform Trust, SACRO, Professors Fergus McNeill and Mike Nellis to the Referendum (Scotland) Bill Committee of the Scottish Parliament, about the proposal from the Scottish Government to prevent all of convicted prisoners detained in prison on 18 September 2014 from voting in the referendum on independence.

I agree that prisoners' right to vote is an important issue on which Scotland should reach its own conclusions and which should be properly scrutinised and debated as the Scottish Independence Referendum (Franchise) Bill passes through the Parliament between now and June. In particular, I support the view put forward in the submission to the Committee that Scotland should take this opportunity to follow the example of most European democracies and if practically possible enable at least some convicted prisoners to vote in September 2014.

I hope you will support that position.

PhD Candidate,
University of Glasgow and Teaching Fellow,
University of Abertay
Dundee

The above message reflects my own personal views rather than those of either institution.

March 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL
NATIONAL DEAF CHILDREN'S SOCIETY

Introduction
The National Deaf Children’s Society (NDCS) is the national charity dedicated to creating a world without barriers for deaf children and young people. NDCS Scotland estimates there are 3500 deaf children and young people in Scotland, 90% of whom have hearing parents or carers.

We use the term deaf to refer to all levels of childhood deafness including hearing loss in one ear, temporary hearing loss such as glue ear and also to refer to all types of communication methods, including British Sign Language.

Context
NDCS Scotland welcomes the opportunity to submit evidence to Committee regarding the Scottish Independence Referendum (Franchise) Bill and in particular is keen to discuss how to maximise both the education and participation of young deaf people in the Scottish Independence Referendum proceedings.

NDCS Scotland welcomes the Scottish Independence Referendum (Franchise) Bill which is a significant step forward in terms of the rights of young people to vote. NDCS Scotland is keen to see the Bill make explicit provision to allow all 16 and 17 year olds to exercise this right, taking into account the needs and rights of young disabled people, such as those who are deaf.

There are currently an estimated 3500 deaf children and young people living in Scotland today. A deaf young person may have a mild, moderate, severe or profound hearing loss, use British Sign Language (BSL), and/ or communicate by speech. They will come from different backgrounds and have different support networks.

Everyday, young deaf people face serious barriers which impact on how easily they can engage and participate in our society. These barriers are often as simple as a lack of understanding of the needs of young deaf people and how to communicate with them.

Bill provision
NDCS Scotland believes it is essential that the Bill outline steps to ensure that deaf young people are included in such a historic moment for Scotland, one that may be fundamental to fostering a sense of citizenship and political engagement among our youth.

NDCS Scotland recommends that the Bill take proper account of the provisions laid out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) to ensure all disabled young people are being fully engaged. In particular, NDCS Scotland highlights Article 29 in relation to the participation of disabled people in political and public life.

This Article outlines action to be taken to guarantee that disabled people enjoy their political rights on an equal basis to others. Crucially, the Article outlines that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use. This point is particularly significant when we consider the communication needs of deaf young people.
In the experience of NDCS Scotland, information and communication with young deaf people is best achieved when there is a clear understanding of the varied target audience. The needs of young deaf people can vary from confident individuals with mild hearing loss to more vulnerable individuals with additional complex needs and profound deafness. It is vital to reach out to them all, and to provide information and engagement opportunities that suit their communication needs, including those who use BSL as their first or preferred language.

Similarly, it is also important to understand that average literacy levels of deaf young people in Scotland are currently lower than their peers. It is important to make any messaging accessible, without being patronising, and to communicate information clearly and simply.

NDCS Scotland would also like to see schools and colleges as places to promote engagement in the Referendum. While more than 80% of deaf children are taught in a mainstream school they usually have little opportunity to interact fully with professionals who have an in-depth knowledge of their unique learning strategies. NDCS Scotland recommends that where promotion takes place in schools, due consideration is given to how accessible this information is for deaf young people.

In addition, NDCS Scotland recommends that efforts are made to engage with all young deaf people – this includes those who attend school at a specialist unit within a mainstream school or at a special grant-aided school.

NDCS Scotland is happy to share its wealth of experience in this area and recommend further best practice with regards to communication and engagement with young deaf people.

Katie Rafferty
Policy and Campaigns Officer (Scotland)

11 April 2013
Introduction
NUS Scotland welcomes the opportunity to discuss how to ensure high participation levels of young people in the upcoming referendum. We have long campaigned for extending the vote to 16 and 17 year olds, and believe the inclusion of the franchise within the Edinburgh Agreement is a significant step towards achieving voting rights for 16 and 17 year olds in all elections in the UK.

It is very welcome to see this committee investigating how participation rates can be maximised among 16 and 17 year olds. We strongly hold the view that 16 and 17 year olds today are ready to engage and participate in both the referendum and democracy in full, having learnt the principles in compulsory citizenship education. We already know that young people are engaging in significant numbers, through being a local youth councillor, a member of the Scottish Youth Parliament or involvement with their students’ association.

Not only are 16 and 17 year olds by law able to make complex decisions and take on wide-ranging responsibilities, they are also showing in practice that they want to make a positive difference. By having the vote, 16 and 17 year olds will be able to raise issues that are persistently affecting young people in their area, and have a democratic say in the policies and candidates they believe would best serve them.

NUS Scotland has maintained support for all 16 and 17 year olds to have the vote in this referendum, and welcomes the committee’s steps towards extending the franchise in such a way that no 16 year old in Scotland at the time of referendum will be disenfranchised. We hope that the committee will put forward legislation on extending the franchise that leaves no room for confusion as to who can and cannot vote.

We also believe it is important that comprehensive efforts are made to educate young people who will be eligible to vote at the time of the referendum about how to register, and ensure they have the information and tools needed to take part in this historic vote with an unprecedented franchise.

In order to help make this possible, we support the extension of the duty on the Society of Local Authority Lawyers and Administrators in Scotland to promote the referendum to young people.

NUS Scotland also supports the unbiased promotion of referendum participation in schools and colleges, and would like to see polling places open on college and university campuses for the referendum.

We would also hope to see legislation help clarify for schools the importance of removing barriers to organisations that wish to provide unbiased information to young people.
Finally, we would urge the committee to work with Westminster colleagues to delay any implementation of changes to voting registration methods (specifically individual voter registration) until after the referendum, in order to make the registration process less confusing in the run up to the vote.

**Concern over partial extension of the franchise**
Sections 10 and 11 of the Memorandum of Agreement specifically refer to the issue of the franchise and how the vote could be extended to 16 and 17 year olds.

10. The Scottish Government’s consultation on the referendum also set out a proposal for extending the franchise to allow 16 and 17 year-olds to vote in the referendum. It will be for the Scottish Government to decide whether to propose extending the franchise for this referendum and how that should be done. It will be for the Scottish Parliament to approve the referendum franchise, as it would be for any referendum on devolved matters.

11. The Scottish Government’s decision on what to propose to the Scottish Parliament will be informed by the analysis of responses to its consultation exercise and by practical considerations. The Order does not restrict the extension of the franchise in the case of this referendum.

NUS Scotland, in its consultation response to the Scottish and Westminster Governments, expressed our support for extending the franchise for 16 and 17 year olds. In those responses, we outlined our concerns over a partial extension of the franchise.

NUS Scotland believes that only allowing some 16 and 17 year olds to vote would lead to confusion and disillusionment by young people, just as they are engaging in civic debate for the first time, and on a topic that will have great consequences for their future.

Methods that could allow all 16 and 17 year olds to vote, and which address child protection issues, have been discussed in pre-evidence provided to this committee, and we would welcome the implementation of procedures that would ensure a clean and clear extension of the vote.

We would therefore hope the Committee are able to ensure that the Electoral Commission be given the power to change its procedures in order to ensure votes at 16 is **genuine** votes at 16.

**A well-resourced registration and information campaign**
NUS Scotland has long believed that the extension of the franchise for all 16 and 17 year olds, for all elections in the UK, would be a huge step forward for democracy. Given the historic nature of the vote, and the worldwide stage it will place Scotland on, it is crucial that 16 and 17 year olds are encouraged, and enabled, to participate in high numbers.
NUS Scotland believes that young people who do not have the opportunity to vote could easily become disheartened, at a crucial time in their civic development. Equally, this vote presents a unique opportunity to involve young people in a democratic process that few around the world will ever experience. To make this a reality, NUS Scotland believes there needs to be sufficient time and resources devoted to educating and registering young people as far ahead of the referendum as possible.

NUS Scotland welcomes the decision to advance legislation extending the franchise long before the referendum vote takes place. However, we also believe that efforts to secure turnout must be well-organised and well-funded.

A first step towards ensuring that as many young people are reached as possible is by extending a duty on the Society of Local Authority Lawyers and Administrators in Scotland to promote the referendum to 16 and 17 year olds. By extending the duty of this organisation to promote not only elections but the referendum as well, we believe we will see even more young people reached out to and supported in exercising their newly extended democratic rights.

NUS Scotland would also like to see unbiased promotion of the referendum in schools and colleges. As the committee heard in pre-evidence, Guernsey was particularly successful in securing high turnout of 16 and 17 year olds. Despite the smaller sample size, this demonstrates that with adequate resources and innovative methods, high turnout can be achieved.

Although we would not support campaigning in schools, we do hope that legislation extending the franchise will also help clarify for schools the need to remove potential barriers to participation of young people, and ensure organisations that wish to provide unbiased information to young people have the ability to do so. As part of this effort, we would also like to see polling places opened on college and university campuses, in order that as many students as possible will find it as easy as possible to take part in this once-in-a-lifetime opportunity.

Finally, we would call upon the committee to do everything in its power to urge Westminster to delay the implementation of legislation which would alter voter registration procedures until after the referendum. We believe changes to voter registration procedures this close to the referendum would not only divert resources elsewhere at a time it needs to be focused on the upcoming vote, but additionally it could cause confusion among potential voters and result in reduced turnout.

**Conclusion**

NUS Scotland welcomes the agreement forged by the Scottish and UK Government that will allow the franchise to be potentially expanded to allow 16 and 17 year olds the vote in the referendum.

We are keen to now see how the Scottish Government proposes to do this. Extending the franchise would empower young people to better engage in society and influence decisions that will define their future.
We now look for the committee to propose legislation that will overcome any hurdles to the allowing all 16 and 17 year olds the vote, and ensure the effort to register and inform young people ahead of the vote will well resourced, comprehensive and result in high turnout.

Mike Heffron
Press and Policy Officer
March 2013
I am writing to you on behalf of Quakers in Scotland, with regard to Section 3 (Prisoners) of the Scottish Independence Referendum (Franchise) Bill, which proposes that convicted prisoners will not be entitled to vote in the referendum.

As Quakers we have come to believe that convicted and certainly unconvicted prisoners should have the right to vote in elections and we extend this logic to the referendum. The Howard League Scotland’s submission to the Referendum Scotland Bill Committee, which makes a strong moral case for not disenfranchising serving prisoners, and reminds us that our current national position on this matter is anomalous among other European nations, is in keeping with our thoughts on this matter.

People sent to prison remain members of society and should be reminded of, and encouraged to exercise, their civic responsibilities. The punitive element of prison is the temporary denial of liberty and mobility, not ‘civic death’. While there may be room for argument about selective exemptions in rare cases, the presumption that prisoners should vote should be the norm. Alongside broader educational measures in prison, voting rights could and should encourage serving prisoners to take a positive interest in society, to consider their own futures and, without being decisive in themselves, can play a part in the process of desistance and rehabilitation. In the scheme of things, not all serving prisoners will take up an entitlement to vote - but it is important, in a civilised modern society, to register their entitlement, and to create viable administrative arrangements to realise it.

The Referendum Bill gives Scotland a golden opportunity to signal now the kind of inclusive and supportive citizenship to which it will hopefully give expression in the future. The strong moral case for extending voting rights to prisoners suggests to us that in the context of the Referendum Bill we should be adventurous, and incorporate such a commitment within the body of the intended legislation.

Robin Waterston
10 April 2013
Quakers in Britain support the right of prisoners to vote and have endorsed public statements by the Prison Reform Trust, the Howard League for Penal Reform and others, urging the UK Parliament to amend the law.

People sent to prison remain members of society and should be encouraged to exercise their civic responsibilities despite the denial of their liberty. As part of their rehabilitation we should encourage responsibility as far as possible, and exercising one’s right to vote is part of that responsibility. As far as the right of prisoners to vote is concerned, we see no reason to make a difference between elections and referenda. We are all unique, precious children of God, even those who have transgressed.

Thus we are concerned about Prisoners Section 3 of the Scottish Independence Referendum (Franchise) Bill, which confirms that convicted prisoners will not be entitled to vote in the referendum, stating that the European Court of Human Rights ruling on prisoners voting does not apply to referendums.

We strongly support the submission to the Referendum (Scotland) Bill Committee by Quakers in Scotland, the Howard League for Penal Reform Scotland and others, making the case that the Scottish Government should allow prisoners to vote in the referendum on Scottish Independence.

Jamie Wrench
Clerk
11 April 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL
SCOTTISH ASSOCIATION OF SOCIAL WORK

Introduction
The Scottish Association of Social Work represents social workers, many offering frontline services throughout Scotland. They work in both rural and urban communities, local government and voluntary sector services and often are the gateway to local government and third sector services. SASW members are daily involved in the criminal justice system and work towards deterring people from crime. SASW would endorse the submission already lodged by the Howard League for Penal Reform in Scotland, The Prison Reform Trust, SACRO, Positive Prison? Positive Futures, Professor Fergus McNeill and Emeritus Professor Mike Nellis.

Ethical practice and rehabilitation back into the community
One of the core principles in the Code of Ethics all our members sign up to is to treat people with dignity and respect. It means accepting the person, not condoning the deed. From this basis we are able to establish relationships with people to help them on their journey of change and that relationship is often the catalyst to achieving that change.

Prison sentences create many challenges for people who become easily institutionalised which results in them losing the ability to take responsibility for themselves and their actions. It often results in losing family contact, a home and where they had work their employment. Rebuilding a sense of responsibility is part of through care work and post sentence support.

It is the view of our members, from their long and persistent work with people in the criminal justice system that treating people with respect, like making sure they have citizen rights of voting will contribute to helping offenders become ‘social citizens’ rather than perpetuating their exclusion. It should be noted that Social Inclusion (along with Justice and Safety) has become one of three overarching aims of our new national CJ SW standards as noted in Scottish Government (2010b) National Outcomes and Standards for Social Work Services in the Criminal Justice System. http://www.scotland.gov.uk/Resource/Doc/925/0103556.pdf

Conclusion
Whilst our members recognise the complexities of including serving prisoners in the electorate SASW would support the submission by others that this is an opportunity to move forward an important issue that would lead to improved social inclusion and redress a serious human rights issue.

12 April 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

SCOTTISH YOUTH PARLIAMENT

Introduction and Context of Evidence

The Scottish Youth Parliament (SYP) welcomes the opportunity to give evidence on the Bill, and indeed the publication of the Bill itself, as it paves the way for 16 and 17 year olds to exercise their right to vote for the first time in the referendum, and removes any technical issues that may have prevented some from registering to do so.

The Scottish Youth Parliament believes that it is fundamental that 16 and 17 year olds should be allowed to vote, and have campaigned for the principle of Votes at 16 for over a decade. When the suggestion of lowering the voting age was proposed in the Scottish Government’s ‘Your Scotland, Your Referendum’ consultation paper, Members of the Scottish Youth Parliament (MSYPs) voted overwhelmingly to organise a national campaign to ensure decision-makers were left in no doubt that Votes at 16 was a priority for Scotland’s young people and should be pursued. The SYP was delighted that the UK and Scottish Governments – contrary to the expectations of many – agreed that the voting age could be lowered for the referendum, and are extremely proud of the part we played in making that happen.

SYP also welcomes the Scottish Government’s action to address a technical, but serious issue in its initial proposals, which would have led to most 16 year olds being allowed to vote, but not legally permitted to register to do so. During 2012 we corresponded regularly with the UK and Scottish Governments to urge them to work together to address this issue and made suggestions for ways in which this could be achieved. The creation of a Register of Young Voters, as proposed by the Bill, addresses this technicality and appears a sensible solution which is to be welcomed.

Our evidence is based on the principles that every 16 and 17 year old living in Scotland not otherwise restricted by existing law should be eligible to vote; it should be as easy as possible for young people to register to vote; and that the processes for doing so are as clear as possible. In addition to comments on the Bill and its accompanying documents, we have also added comments on some of the other issues raised in the Scottish Government’s Annexes to the earlier draft Bill published in December¹, in responses from organisations invited to take part in the Scottish Government’s limited consultation in January², and from points raised in the oral evidence session that SYP participated in on 14th March³.

¹ http://www.scottish.parliament.uk/S4_ReferendumScotlandBillCommittee/20121214_Reply_from_DFM_Annex_A_background.pdf
² We are grateful to Scotland’s Commissioner for Children and Young People, the Centre for Excellence for Looked after Children in Scotland, the Electoral Commission and the Electoral Reform Society Scotland for making their responses available.
Eligibility to join the Register of Young Voters and Design of Forms

The Scottish Youth Parliament welcomes the creation of a Register of Young Voters, which will enable those not entitled to join the main local government register to take part, and also creates opportunities to tailor awareness-raising activity to young people to ensure that they are fully informed of the referendum, their right to vote in it and how they can register to do so.

SYP recommend that the registration forms, information and publicity accompanying the canvass refer to dates of birth (i.e. born between 1st December 1997 and 18th September 1998) rather than age (‘if you will be 16 at the time of the referendum’) to avoid unnecessary confusion being caused.

As certain 15, 16 and 17 year olds will be eligible for different registers, the possibility of young people being registered incorrectly in error is high, and a matter of concern. Based on our reading of the proposals, those born on 30th November 1997 or earlier would be eligible to join the current register of local government electors. Those born between 1st December 1997 and 18th September 1998 would be eligible to both join the Young People’s Register and vote in the referendum. The proposed household canvass form for the Register of Young Electors included in the draft Bill however refers to “young people…who are 15 at the moment, but will be 16 by the referendum” which is likely to cause confusion and increase the likelihood of young people who are eligible to be registered being left off the form in error. We are concerned that young people being led to believe that they would be able to vote in the referendum, but being denied the opportunity to do so in practice would lead to widespread confusion and disappointment amongst them and could lead to their subsequent disengagement from the democratic process. We strongly suggest referring to the dates of birth, in a similar way to the way in which we have outlined above rather than ‘15 now, 16 at the time of the referendum’.

Duplicate Registrations

Given that there will be two registers in operation, and that the vast majority of young people registering will be doing so for the first time, it is likely that a number will inadvertently register more than once at different stages of the process. This could include a head of household completing a form on a young person’s behalf at canvass and the young person subsequently completing a form on their own behalf as part of rolling registration. It may include young people who are unsure whether or not they are registered and completing a form to make certain that they are. Additionally, there is a reasonable prospect of young people, their parents or carers completing forms for the local government register when they should be registered on the Register of Young Voters and vice versa.

The Scottish Youth Parliament strongly believes that the importance of ensuring all young people who are eligible to register to vote are given as many opportunities as possible to do so outweighs any administrative difficulties caused by people inadvertently registering more than once, or accidentally completing the form for the wrong register. The advice we would hope to give to young people who are uncertain about whether they are registered to vote in the referendum is to complete a form to make sure that they are. We hope
that this is advice that others are able to give too. SYP urges clarification at the earliest possible stage that in cases where young people are registered twice, or that forms are completed for the wrong register, that their registration is accepted and that they will not face the penalty of being disenfranchised for an error made in good faith by their parent, carer or by themselves. We recognise that the lowering of the voting age will create additional administrative challenges for Electoral Registration Officers, but we are confident that the difficulties posed are not insurmountable and should not present a barrier to young people completing registration forms.

In line with this we would welcome clarification of how the standard electoral offence of ‘registering when you are not entitled to do so’, as outlined in the Policy Memorandum, will be applied in this situation. Whilst we agree that this should be included, in line with regular electoral law and acknowledge that it is already possible for a young person under 16 to commit and be prosecuted for this offence, we are concerned that this may be used to deter young people who are not sure whether or not they are registered, from completing a form to make certain of this. SYP would welcome clarification being included in guidance that prosecutions for this offence will be reserved for cases where people are trying to fraudulently obtain more than one vote, rather than a punishment for a duplicate registration committed in error.

Rolling Registration

In line with our comments above, the Scottish Youth Parliament would stress the importance of the rolling registration process alongside the household canvass, and strongly encourage an increased focus on it for the registration of young voters.

This would enable forms to be distributed in schools, youth clubs and with other information sent to young people, to encourage them to exercise the right to register to vote. As this is the first time 16 and 17 year olds will be eligible to vote in a national poll, increased information about the registration process and an increased focus on encouraging young people to take part will be required.

As most of the young people who will be eligible to vote for the first time in the referendum will be at school or engaged in formal or non-formal education, SYP believes that Votes at 16 has the potential for a natural enhancement of democracy and citizenship education – which young people have consistently raised as a priority for drastic improvement - by providing a practical opportunity for young people to learn about voting and political participation by voting in a referendum. The process of registering to vote is an important part of this, by alerting young people to the fact that they will have a vote on Scotland’s future, and what they learn can be put to practical use when making up their mind on how they vote on referendum day.

We would also support the ‘block registration’ of students living in halls of residence, as has been successfully done in several areas in the past, but does not appear to be done by every university and Valuation Joint Board at present.
Guidance for Schools and Other Organisations

We support the production of guidance from the Electoral Commission or other appropriate body for local authorities and head teachers on how the referendum should be approached in schools.

This guidance should aim to ensure that a consistent approach is taken in every school in Scotland; that pupils have equal access to all points of view and that schools are not scared off engaging young people in the referendum or avoiding it entirely due to uncertainty over concerns of being seen as biased, or because of they are afraid they may break the law.

Schools have a vital role in engaging young people in the referendum, helping them to register, encouraging them to consider the issues and exercise their right to vote. Teachers have a responsibility to teach issues in an impartial way and present pupils with different points of view and are well-placed and extremely capable of enthusing young people to cast their first vote, and have their say on Scotland’s future.

Guidance for other organisations, such as students’ associations, youth forums, trade unions, churches and other civil society organisations would be helpful to enable them to consider their role and what they can or cannot do in the run-up to the referendum, such as organising hustings, providing information to their members, or taking a public position on the outcome. In particular, this would be extremely helpful to charities and voluntary organisations. As SYP is a registered charity we always need to be extremely careful at election time to ensure that we do not breach charity law in our efforts to support the participation of young voters, and guidance from the Electoral Commission or the Office of the Scottish Charity Regulator (OSCR) would be welcome.

Protecting Young People’s Personal Information

The Scottish Youth Parliament welcomes the additional safeguards that have been included in the Bill to ensure that the personal information of young people is protected. We agree with the merging of the local government register and Register of Young Voters, not specifying dates of birth or whether someone is under 18 or not, before names and addresses of all electors are given to referendum administrators and campaigners for appropriate communications.

We note the concerns raised by the Electoral Commission in relation to campaigners being unable to check whether an donor is allowed to do so (i.e. on the local government register) if electors from the Register of Young Voters are also included without any marker. To address this, we would suggest that electors from the Register of Young Voters are also allowed to donate to the campaigns.

Level of Turnout Amongst 16 and 17 Year Olds

In line with the sensible approach taken to merging the two registers prior to distributing them to campaigners and administrators, we were slightly concerned at the contradictory approach suggested in the original draft of the legislation, which
suggested the register given to counting officers for use in polling stations would include a marker identifying 16 and 17 year olds for the purpose of determining the level of turnout amongst them. As these registers will be made available for public scrutiny after the referendum, SYP were concerned at this suggestion, and are pleased it has not been pursued.

There may be alternative approaches to calculating the turnout amongst 16 and 17 year olds if this policy were to be pursued however. For instance, as Electoral Registration Officers will have access to the full range of information (including dates of birth) submitted as part of the registration process, we feel that it should be possible to calculate this figure by comparing unmarked registers from polling stations to the information they hold centrally.

However, whilst we understand the interest in determining the level of turnout amongst 16 and 17 year olds, the SYP feels that the impact of Votes at 16 should not be judged solely by the turnout percentage. Whilst turnout amongst 18-30 year olds is generally lower than other age groups, and it may well be the case that it is also lower amongst 16 and 17 year olds in the referendum, this is no reason to pronounce enfranchising over 100,000 additional electors as full citizens a success or failure based on how many of them are persuaded to vote.

Considering just 50% of those registered to vote at the Scottish Parliament election actually did so⁴, and only 64% turned out to cast their ballot in Scotland at the 2010 UK General Election⁵, this is a hardly an issue confined to the young. Turnout and political engagement is also lower amongst other groups in society, for instance amongst socially excluded groups⁶, but any attempts to deny them the right to vote on this basis would, quite rightly, be met by fierce criticism and protest. Whilst we are interested in the turnout figure amongst 16 and 17 year olds, SYP does not feel that this should be used as the only factor to decide whether the voting age should be lowered for future elections, and we would urge decision-makers to refrain from using it in this way.

Vulnerable Young People

The Scottish Youth Parliament welcomes the consideration given to vulnerable young people in the Scottish Government’s approach to the registration process to ensure that young people whose address should not be disclosed does not have to be to enable them to register to vote.

We would encourage targeted information about ‘declaring a local connection’ or anonymous registration is provided to young people in circumstances, such as young people living in residential units, or a non-disclosure order has been given regarding young people’s whereabouts in the interests of their safety. We would

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⁵ BBC News Election 2010 Results - Scotland http://news.bbc.co.uk/1/shared/election2010/results/region/7.stm
encourage information is given to those that work with young people young people in vulnerable circumstances to enable them to discuss the full range of options with young people and decide which option is best for them. We would also echo the call of the Children’s and Information Commissioners in oral evidence to the Committee, for clear information on ‘declaring a local connection’ or anonymous registration to be included with the household canvass forms, setting out the qualifying criteria and process for applying to do so.

SYP would also recommend that Electoral Registration Officers work with organisations that work with young people who are not in a stable household (e.g. young people in care, careleavers, homeless) to ensure that they are able to register in an appropriate way and can participate as full citizens.

Requirement for Awareness Raising Programme

With the extension of the franchise to 16 and 17 year olds, and the creation of the Register of Young Voters, the Scottish Youth Parliament feels it is essential that a comprehensive awareness raising programme is carried out in the months leading up to the referendum to ensure that Scotland’s young citizens are fully informed of their right to vote, the process for registering to do so, the process for casting a vote together with impartial information on the issues to allow them to make a fully informed decision and encourage them to fully participate in the democratic process on referendum day.

Information should be produced on these topics in straightforward, accessible and plain language and efforts must be taken to ensure this is conveyed to young people in an appropriate manner. This should include work to ensure that appropriate resources are available for use in citizenship and democracy education in schools and non-formal educational settings, and that learning about voting in the referendum is not confined to Modern Studies classes and information about the issues is not left up to the campaigners. It must involve young people as peer educators to help raise awareness of the process and use the issues that matter most to young people to encourage them to actively participate as first-time voters. Given the importance of the internet in the daily lives of young people, ensuring that information is available online, and on smartphones is essential.

The Scottish Youth Parliament supports the Society of Local Authority Lawyers and Administrators in Scotland being given a duty to promote the referendum to young voters, in line with the proposal from NUS Scotland7. We are supportive of the suggestion that other organisations can share responsibility for informing, engaging and supporting young voters to register and participate in the referendum. We would also urge the Scottish Parliament and Government to ensure that sufficient resources are allocated to this vital work.

The Scottish Youth Parliament would be keen to play our part in ensuring that an awareness raising programme leads to a new generation of informed citizens casting

7 Written submission from NUS Scotland - http://www.scottish.parliament.uk/S4_ReferendumScotlandBillCommittee/Agena_and_papers_14_March.pdf
their vote on referendum day and would be delighted to discuss and assist with an awareness raising programme as appropriate.

Rob Gowans – Policy and Research Officer
Scottish Youth Parliament
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

ROBERT SEATON, SOLICITOR

CLAUSE 3: FURTHER PUNISHMENT OF IMPRISONED OFFENDERS BY DEPRIVING THEM OF THE VOTE

This is a proposal for an amendment to Clause 3 of the Scottish Independence Referendum (Franchise) Bill, which deprives convicted offenders serving a prison sentence at the time of the independence referendum of their vote in the referendum.

Proposed amendment to clause 3:

The committee is requested to consider introducing an amendment such that courts have the discretion to allow prisoners sentenced to shorter prison terms in the period before the referendum to vote in the referendum, and that the parole board may allow prisoners coming to the end of their prison terms to vote.

Automatically depriving all convicted prisoners of their vote in the referendum is an arbitrary punishment in addition to the prison sentence

No case needs to be made to members of a democratic Parliament that depriving someone of the right to vote is a punishment. It is self-evident.

The referendum involves one of the most important choices any of us will make in our lifetime. We should not lightly deprive anyone living in Scotland of the opportunity to take part in the choice.

The point here is to understand that depriving a prisoner of the vote is a punishment additional to the prison sentence that offenders would receive at any other time. The same prison term is likely to be imposed for a similar offence before or after the referendum, e.g. someone sentenced to a week’s imprisonment for breach of the peace is likely to receive the same sentence whenever convicted, but deprivation of the right to vote will be added to the punishment of a person who happens to be in prison on referendum day.

As compared with the offence that might have been committed, some people will feel being deprived of their vote as very severe punishment. It is also an arbitrary punishment for the following four reasons:

1. There is nothing in the bill that allows the court to take deprivation of the vote into account in determining sentence
   Courts have no express power to remit part of the sentence to make up for the additional punishment of deprivation of the vote.

2. Other similar offenders will not be deprived of the vote
   The following will not be deprived of their vote:
   - offenders who have just been liberated from prison,
   - offenders on bail awaiting sentencing.
• offenders who have been sentenced to alternatives to prison (probation, restriction of liberty orders, drug treatment and testing orders)
• offenders serving a sentence in a prison outside the UK (if they remain on the electoral register)
• offenders previously convicted of electoral fraud

3. Receiving the punishment depends entirely on when the offender happens to be imprisoned
The punishment will not be imposed if:
• There is a delay in the court process, leading to a delay in sentencing
• The offender is released early from prison

4. The punishment is not fitted to the crime:
Deprivation of the vote is a punishment that will fall on murderers and minor offenders equally:
• the judge might have decided that a relatively light sentence fits the offence (41% of all prison sentences in 2011-12 were for less than 6 months) but an imprisoned offender will still be deprived of the vote
• offenders might conceivably be deprived of the vote for an offence such as:
  o Shoplifting to feed a drugs habit
  o Civil disobedience in support of the “yes” or “no” campaign
  o Drunken over-exuberance after a Scotland match resulting in breach of the peace

Depriving all prisoners of a vote fails any equalities test:
The punishment will fall disproportionately
• on the poor
• on the young
• on those who were brought up in local authority care
• on the mentally ill
• on ex-servicemen and women

because these groups have a disproportionately high representation in the prison population.

There are no practical difficulties in enabling prisoners to vote that cannot be overcome:
Remand prisoners, fine defaulters and civil prisoners are all entitled to vote although imprisoned.

Many offenders do have an interest in the future of their country but will be deprived of a say in it
It is justifiable to deprive people who are serving long sentences of their right to vote. The court that convicted them decided that their offence is sufficiently serious it merits their exclusion from society for a long time. However, most offenders are
going to re-enter society imminently. They have the same stake in the future shape of their country as every other citizen.

You might think that this is hard luck. However, one aim of prison is to reform offenders and reintegrate them into society. Someone serving the last day of their sentence on referendum day will nonetheless be deprived of their vote, and therefore be deprived of any say in the world they are about to re-enter. Depriving prisoners of the vote just before their liberation is a bad start for their re-integration.

**Proposed amendment**

If people are to be punished for an offence they have committed, it should be by the courts, not by a mechanical operation of the law like that proposed. The committee is requested to consider introducing an amendment with the effect:

- that from now until the referendum, a court sentencing an offender for a period that may include the referendum should be entitled to determine that, although sentenced to prison, an offender is not to be deprived of the right to vote; and
- that prisoners serving the last year of their sentence should be entitled to apply to the parole board for the right to vote.

Dostoyevsky’s comment is well known: “The way society treats its prisoners characterises the level of its civilization”. A better country, and a higher level of civilisation, is something both sides in the independence debate should be aspiring to.

March 2013
I have seen the evidence submitted by the Howard League for Penal Reform in Scotland, Prison Reform Trust, SACRO, Professors Fergus McNeill and Mike Nellis to the Referendum (Scotland) Bill Committee of the Scottish Parliament, about the proposal from the Scottish Government to prevent all of convicted prisoners detained in prison on 18 September 2014 from voting in the referendum on independence.

I too agree that prisoners' right to vote is an important issue on which Scotland should reach its own conclusions and which should be properly scrutinised and debated as the Scottish Independence Referendum (Franchise) Bill passes through the Parliament between now and June.

In particular, I strongly support the view put forward in the submission to the Committee that Scotland should take this opportunity to follow the example of most European democracies and if practically possible enable at least some convicted prisoners to vote in September 2014. I hope you will support that position.

In the longer term, we should consider this issue fully, and not necessarily follow what has happened in Westminster. My personal view is that Scotland should operate a system where those prisoners sentenced to life or indeterminate sentence automatically lose the right to vote while imprisoned; those serving four years or more may specifically be disenfranchised by a judge in high court as part of their sentence; and those sentenced to short sentences of under four years (i.e. serving less than two years) do not lose the right to vote. They would be able to apply for a postal vote as any other citizen.

It is time we gave this matter serious and proper consideration and I urge your support.

Professor Alec Spencer
Honorary Professor, Criminology and Criminal Justice, University of Stirling;
Convener, the Scottish Consortium on Crime and Criminal Justice;
Former, Director of Rehabilitation and Care, Scottish Prison Service.

12 April 2013
This is a response to the call for evidence for the Scottish Independence Referendum (Franchise) Bill. I am writing in support of the comments attributed to Professor Stephen Tierney that were publicised in the Scotsman newspaper on 21st March 2013. http://www.scotsman.com/news/prisoner-vote-ban-may-be-challenged-1-2849061

[Link no longer operates]

I agree with Professor Tierney that a referendum that excludes prisoners from voting will be open to a legal challenge. I reckon there are a number of issues that should be addressed. As it stands it must become a priority to inform remand prisoners of their right to take part in this process. The SPS and the Scottish Government should be taking steps to ensure procedures are in place so that those who want to vote whilst on remand can actually vote. There may be scope for some powers to be granted that allows for proxy or postal votes to be entered later than normal if you are being held on remand. After all, no one actually plans in advance to be remanded.

There is also the political point about the rights of prisoners to participate in democratic processes. Voting and taking part in the democratic process is an inherent part on the road to desistence and rehabilitation. This referendum represents the biggest possible constitutional shake up for the future of Scotland. Even if you have been handed down a life sentence the effect of this vote will still be felt upon your release. Therefore I would argue that it is imperative that everyone who is resident in Scotland is allowed to participate, and this includes ALL categories of prisoner. It is no secret that the UK Government will be forced to allow prisoners to vote unless they withdraw from the ECHR. Therefore the arguments that underpin this process should also apply to the referendum. If and when the law is changed to allow prisoner votes, it is not a massive jump to predict that someone somewhere will raise a similar action having been denied a vote in the referendum. A blanket ban is ethically questionable, morally repugnant and legally suspect.

In terms of resources there will be a cost involved in allowing this to take place. Firstly mechanisms would need to be enacted to allow votes to be taken within institutions. Secondly, I think it would be incumbent upon the Scottish Government to provide a bucket to David Cameron PM as this stance will make him physically sick!

This bill allows the explicit setting of the franchise for the referendum. It is an opportunity missed if the Parliament adopts the bill with the blanket ban on prisoners as it stands.

James Watson MBA

March 2013

Corrected version provided on 17 April 2013
Electoral Commission response to Scottish Government proposals for a Referendum Franchise (Scotland) Bill

The Electoral Commission is an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections and referendums. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation and no undue influence.

For council elections in Scotland we undertake a number of roles relating to the administration of the elections for which we report directly to the Scottish Parliament.

General comments

1.1 On 7 December the Scottish Government sought the Commission’s comments on a policy proposal and an initial draft of the Referendum Franchise (Scotland) Bill (hereafter referred to as the initial draft Bill). The proposal and initial draft Bill seek to establish a legal framework to enable all 16 and 17 year olds to register and cast a vote in the referendum on independence for Scotland. In our response\(^1\) to the Scottish Government’s consultation, Your Scotland, Your Referendum, we were concerned that if the Scottish Government’s policy intention was to lower the voting age to 16 it might not be achieved via the then proposals. We welcome the clarity of the new policy paper and initial draft Bill which seeks to enfranchise all those who would be 16 on the referendum polling day.

1.2 We note, however, that the initial draft Bill does not cover all of the Scottish Government’s proposals to enable 16 and 17 year olds to vote in the referendum as some of the proposals will be legislated for in the main Referendum Bill (for example, the marked registers), some may be provided for through secondary legislation and others do not require legislation. We recognise that the bill is in the early stages of development but would welcome confirmation of what will be legislated for in the Referendum Bill or subsequent secondary legislation.

1.3 The Commission notes that under the Edinburgh Agreement the question of the franchise is a matter for the Scottish Government and Parliament to determine. Our priority is that there are no barriers to participation in the referendum by all eligible electors, and that the registers used to administer the poll are complete and accurate, regardless of the

particular franchise in use. The purpose of this response is to comment with the aim of ensuring that these principles are achieved in the legislation. We will continue to monitor the proposals against this priority as they are developed.

1.4 The referendum legislation, either in a redraft of the initial draft Bill, the draft Referendum (Scotland) Bill or related secondary legislation, needs to make clear how the young voters register and the merged register will be used, when and by whom for the following purposes:

- ensuring that the register to be used at the referendum is kept up to date
- supplying the registers to Counting Officers (COs) for the purpose of taking the poll at polling stations and for postal voting,
- enabling registered referendum campaigners to put their arguments directly to those who will be eligible to vote in the referendum
- enabling registered referendum campaigners to check the permissibility of donations and loans received
- supply of the marked merged register to registered referendum campaigners following the referendum
- public inspection of the marked merged register following the referendum
- storage by the proper officer of the relevant council after the referendum
- access for the purposes of any legal proceedings

1.5 A number of our comments identify gaps in the current proposals that will need to be addressed if the registers are to be used for all of these purposes.

1.6 In redrafting the Bill to this effect, the Scottish Government will also need to ensure that any potential unintended consequences are identified and mitigated where appropriate, including data protection and child protection issues. We note and welcome that the Scottish Government has already recognised these potential issues and has sought to address them in its proposal.

1.7 Electoral Registration Officers (EROs) will need to collect the details of some 15 year olds so that they are registered to vote in time for the referendum if they will be 16 by polling day. We are pleased to note that the Scottish Government has been in discussion with organisations concerned with children’s issues and data protection to ensure that these proposals do not adversely affect anyone under the age of 16. If these discussions identify any issues which require significant changes to the policy or initial draft Bill, we would appreciate the opportunity to discuss these with the Scottish Government. It will also be important to ensure that any relevant changes to the proposals – as a result of this consultation or otherwise - are discussed with these organisations as the policy is developed further.

1.8 The policy paper indicates that further details of how the policy is to be implemented are to be contained in secondary legislation or are still to be identified and included in a schedule to the draft Bill. The Commission is
happy to provide comments on the proposals and initial draft Bill at this stage, but we may wish to review our comments further once the fully developed proposals and draft legislative provisions are available.

1.9 The Scottish Government, along with the Commission, EROs, COs, registered campaigners and others, will want to ensure that the language used in all information materials targeted at young people clearly and consistently explains which young people will be eligible to register and vote and who will not. We would not wish to see any young person inadvertently misled due to their nationality or precise age for example. We will be happy to work together with others to prepare some common language on this issue.

1.10 The Commission is happy to expand on its comments further or to meet with Scottish Government officials to discuss our comments in more detail.

Impact of Individual Electoral Registration (IER)

1.11 The Electoral Registration and Administration (ERA) Bill at present before the UK Parliament provides for a fundamental change to the registration of electors in Great Britain. The UK Government currently anticipates that that Bill will shortly be approved by the UK Parliament, with secondary legislation to give effect to these changes to follow.

1.12 The Scottish Government’s initial draft Bill applies and makes modifications to existing electoral law such as the Representation of the People Act 1983 (RPA 1983) and some secondary legislation. Given that much of this existing law will be repealed or amended if the ERA Bill and its secondary legislation is approved in the UK Parliament, the Scottish Government will need to ensure that their Bill achieves its objectives. For example, the initial draft Bill applies Section 10 of the RPA 1983 to provide for the conduct of the canvass for the young voters register. This section will only apply in respect of Northern Ireland once the ERA Bill is enacted.

1.13 The Scottish Government will need to be in regular communication with the Cabinet Office of the UK Government on the transition to IER. We note that this is already occurring and should continue until all the necessary legislation under the ERA Bill and the revised draft of the Bill is in place. Both Governments should work together to identify any issues which the introduction of IER may have on the referendum and develop plans to ensure any such issues are resolved in the best interests of voters.

1.14 We recognise that IER is a UK Government policy and thus not within the control of the Scottish Government. However, we recommend that the Scottish Government, following detailed discussions with the Cabinet Office, publishes its understanding of how IER will impact upon the administration of the referendum when a revised draft of the Bill is introduced to the Scottish Parliament.

1.15 Such a process should identify the processes for registering as young voters as well as those registering as local government electors. If personal identifiers for over 18s are to be required from July 2014, then similar
legislation would be needed for those under 18 who would be eligible to be added to the young voters register. However, if this was not to be the case, then different requirements will be needed and separate public awareness campaigns with different messages will be required for young voters. Clarity on this point is essential at an early stage to allow all those involved to be clear and able to plan accordingly.

1.16 In addition, IER will introduce changes to the process of applying to vote by post and by proxy. This will similarly need to be considered in developing legislation for the referendum and should be included in the Scottish Government’s document.

1.17 The ERA Bill will allow the Secretary of State, through regulations, to confer functions on the Electoral Commission, including requirements to design a canvass form or an invitation to register. The UK Government has also published draft secondary legislation providing for the Electoral Commission to determine the application form for registering or altering an application on the register under IER.

1.18 In advance of the transition from household to individual registration, the Commission will produce user-friendly paper application forms, notes and covering letters in accordance with the relevant legislative requirements that are easy for the public to understand and use and that collect the necessary registration information in a consistent format. It is important to ensure that the draft Bill provides for any amends which may need to be made to these new forms to ensure that they can be used for the registration of 16 and 17 year olds. The Scottish Government should consider how these amended application forms are consistent across Scotland and develop proposals to deliver this in practice.

Implementation

1.19 It is difficult to comment currently on the workability of the detailed proposals as a whole given that the section of the initial draft Bill setting out what modifications to secondary legislation will be required has not yet been completed. We would welcome sight of and the opportunity to comment on a revised version of the draft Bill, as soon as it becomes available.

1.20 In particular, we would like to know whether any secondary legislation is planned under the draft Bill, what its content might be and the timescales for its introduction. We are aware the Scottish Government is talking with Scotland’s EROs in order to ensure the legislation is capable of being implemented in a timely manner. We would, however, expect the Scottish Government to indicate that the legislation will be in force at least six months before the annual canvass to give EROs sufficient time to plan and effectively implement the changes.

1.21 Paragraph 12 of the policy proposal states that a marker will appear next to the name of every young voter on the merged register and that this will make it possible to determine the turnout of 16 and 17 year olds. It is unclear
from the policy proposal who will be responsible for calculating the turnout, on what basis it is to be calculated, and how and when it will be published. We would welcome further clarity from the Scottish Government on this matter.

Access, supply and inspection of the register

Supply of the register to registered campaigners

1.22 In discussions with Scottish Government officials, we have previously highlighted some concerns about the proposed approach to making registers available to campaigners at the referendum. The annex to the Deputy First Minister’s letter of 7 December 2012 says (on page 5) that the designated lead campaign organisations on each side of the question will need to access the names and addresses of all electors, including those on the Register of Young Voters, and that before the details of young electors are provided to campaigners they will be merged with the details of those drawn from the register of local government electors.

At PPERA referendums the full electoral register is made available to all those campaigners who register with the Electoral Commission, and not just to the designated lead organisations. The register can only be used by campaigners for two purposes – to campaign in the referendum, and to comply with the PPERA rules on donations (and on loans where these are regulated), by checking that individuals who donate or lend more than £500 to the campaign are on an electoral register, and are therefore permissible donors or lenders.

1.23 The Scottish Government’s policy proposal therefore raises several matters which need to be addressed:

- The intention of making the electoral register available only to designated lead campaigners, and not to all registered campaigners, will make it very difficult for those campaigners that are not designated as lead organisations to comply with their obligations to check the permissibility of donations and loans from individuals. This would place an unnecessary additional burden on these campaigners and may also undermine voters’ trust in the effectiveness of the permissibility controls.
- This approach will also make it more difficult for campaigners to put their views to voters than at PPERA referendums, since they will not have access to the names and addresses of all eligible voters. We think it is important that all those people and organisations which are eligible to register with us to campaign at the referendum have the information they will need to put their arguments to voters, in the same way as campaigners at PPERA referendums, and political parties at elections.
- If the lead campaigners are only able to access the electoral register after they are designated, some weeks into the referendum period, then they will also face obstacles in checking the permissibility of donations and loans received before that point, and in planning to contact voters.
- If the details of young voters are merged with those of people on the register of local government electors, so that campaigners cannot distinguish between people on the two registers, that will make it
impossible for campaigners to use the register to comply with their obligations to check the permissibility of donations and loans to individuals, since only those on the register of local government electors will be permissible donors and lenders (PPERA s.54(8)). This will be a significant problem for campaigners, since there is no reliable alternative means for them to check whether an individual is a permissible donor or lender.

1.25 We therefore think it is important that the full register be provided to all registered campaigners at the referendum in a format that will enable them to determine whether any given individual is a permissible donor or lender. It is also important that all registered campaigners have access to the information they need to put their views to all those eligible to vote in the referendum.

1.26 In addressing these issues, the Scottish Government will of course need to consider how to ensure adequate protection of data relating to young voters. If the Scottish Government wishes to explore options for legislative change that may affect the PPERA permissibility controls, it will also need to consult those affected including the Commission and the UK Government. We would of course be happy to provide advice to the Scottish Government on issues relating to permissibility controls and campaigning.

Availability of the marked registers
1.27 In order to have a transparent referendum which inspires confidence and trust in the result, we recommend that the marked register of electors should be able to be supplied to any of the permitted participants upon request, in a similar manner as marked registers are supplied to candidates and political parties following an election. In responding to the Scottish Government’s consultation paper *Your Scotland, Your Referendum*, we have already said that a new Schedule is required that sets out how the register used for the referendum should be made available for supply and inspection.

1.28 Paragraph 13 of the policy proposal states that no individual or group, other than those in paragraph 10, will have access to the merged register. This is incorrect if the merged register is to be provided to COs for the use of taking the poll at polling stations and then becomes the marked register. Under any of the alternatives listed in paragraph 28, this register which identifies who voted and also whether or not they are under 18, will be available for public inspection.

Compilation of the merged register
1.29 In paragraph 11 of the policy proposal, the Scottish Government lists some alternatives for the way in which the merged register will be compiled. While EROs are entitled to collect information about 16 and 17 year olds as part of the normal annual canvass, there is no legal provision which creates a register of ‘sleeping attainers’. Given that registered campaigners will need the registers in order to put their views to voters and check the permissibility of any donations or loans they receive, all those who are eligible and registered to vote in the referendum must be on a register that is capable of being published. For this reason, we believe that EROs should have a power to determine applications to register from eligible young people, and that the
legislation should make it clear that any information already provided to EROs by sleeping attainers for the purpose of ensuring their names are added to the electoral register can be used to invite an eligible young person to register.

Technical comments

1.30 We would query the drafting of Clause 5(2)(b) of the initial draft Bill. We assume that this provision is intended to clarify that any person who is registered in the young voters register and who reaches the age of 16 prior to the referendum will not be able to vote at any electoral event other than the referendum. However, the drafting does not quite appear to reflect this intention - it provides that the person is only to be taken as a voter for the referendum (only) until they attain the age of 16. If our understanding of the policy intention is correct we suggest this clause is clarified.

1.31 We note from the Schedule to the initial draft Bill (Part 2) that Section 13A of the RPA 1983 is applied, with modifications. Section 13A(2) provides for the monthly updating of the young voters register by issuing, ‘in the prescribed manner’, monthly notices of alteration. The usual provisions for issuing notices of alteration require an ERO to make a copy of it available for inspection. However, our understanding is that the Scottish Government does not intend for these notices of alteration to be published and we would suggest Section 13A(2) is modified to require the ‘preparation’ of monthly notices of alteration (as for the approach to the preparation of the young voters’ register).

1.32 There is no equivalent of Section 3A of the Representation of the People Act 1983 (Disenfranchisement of offenders detained in mental hospitals) contained within the Bill. If the intention of the Scottish Government is that the same requirements for registration apply to young people as for those 18 and over, an equivalent section will need to be drafted.

Consequences for the Referendum (Scotland) Bill

1.33 The Referendum (Scotland) Bill will need to be carefully revised in its entirety to ensure that references to the register of young voters, or the single merged register, are included where appropriate.

1.34 The Scottish Government intends that young people will be eligible to apply to vote by post or by proxy on the same basis as other electors. The absent voting rules that were contained in Schedule 2 of the draft Referendum Bill allow for postal and proxy votes for those on the local government electoral register. We would expect that Bill to be revised before its introduction to the Scottish Parliament to make those rules applicable to persons on the register of young voters as well.

1.35 To ensure that permitted participants are able to put their views to voters, the lists of postal voters and of proxies under Schedule 2 should include the details of young people who have successfully applied to the ERO to vote by post or by proxy.
1.36 The Scottish Government’s policy intention is that the register of local
government electors and the register of young voters will be merged before it
is supplied to Counting Officers and campaign organisations. There will need
to be an explicit provision in legislation that requires this to be done and sets
out exactly how the merged register should be prepared. This would include
how to allocate elector numbers so that there is no duplication and would also
need to consider the best way of ensuring that any updates to the young
voters register that occur after the two registers are merged are carried over
to the merged register.

The Electoral Commission
January 2013
1. During the oral evidence session at the Committee’s meeting on 31 January, Rob Gibson asked Brian Byrne (Scottish Assessors’ Association) the following question (col 139):

“The register is created and then updated every month or so. How accurate is the register on the current electorate?”

2. Mr Byrne responded by saying:

“Overall, population estimates are reasonably reliable but not perfect, and the overall electorate is something like 93 per cent of the population. However, there will be duplicates and people will be missing—it is swings and roundabouts. We feel that the percentage of completeness in the electoral register is in the 90s.

“Accuracy is a slightly different question. If someone moves, it can take time to catch up with that move, so they might still be on the register but not in the right place. That is partly to do with the fact that registration is annual. People can move within the year and part of the purpose of the canvass is to catch up with them.

“From Electoral Commission research, therefore, we know that the register loses about 1 per cent accuracy throughout the year, and it catches up again at the canvass.”

3. Mr Byrne has since e-mailed to clarify this last point. What he intended to say was that the register loses about 1 per cent accuracy each time it is updated throughout the year.

4. He has further explained:

“There are 10 updates per year, and at 1% per update this amounts to a potential loss of 10% between the end of one canvass and the start of the next, mainly due to population movement. It is in the ERO’s power, and is a duty, to remove electors who have died or moved, and should no longer be registered. Each ERO will have systems to collect information to do this at each update. However, it is no longer in the ERO’s power to simply add people who have moved in to the area or come of age at an update. The ERO needs to receive an individual application from the person.

“EROs will encourage applications and use various means such as publicity, issue part filled forms to new council tax payers, and will collect information from social and private landlords or house builders for forms issue, but ultimately the form needs to be completed, signed, and returned by the elector.
“The difference at a canvass is that two updates are suspended and return of the canvass form is a legal requirement. Any form returned by the household can be treated as an application on behalf of any new elector – new electors do not need to sign the form themselves. During the canvass period, therefore, the balance between removal from, and addition to, the register is restored.

“Perhaps I could refer to a report by the Electoral Commission that dealt with this aspect: *The completeness and accuracy of electoral registers in Great Britain -March 2010*, available at:


At page 2 one of the “Key findings” is stated as follows:

“Each revised electoral register lasts for 12 months, from December to December; during that period, the rate of completeness is likely to decline by around 10 percentage points, owing mainly to population movement (although the rate of decline will be higher in inner London boroughs).”

Also at page 2:

“There is clearly scope to introduce measures locally which would improve the completeness and accuracy of specific registers. However, there are limits to what can be achieved nationally using the current registration system.”

Clerk to the Committee
February 2013
Referendum (Scotland) Bill Committee  
Follow-up information from last meeting  
Note by the Clerk

1. At the last meeting, Michael de la Haye, from Jersey, in responding to a question by Patrick Harvie, referred (col 170) to a video commissioned by the States of Jersey to promote voter turnout. He sent the link after the meeting – and members can view it here:

http://www.youtube.com/watch?v=1ixd3ezKkoU

2. Paul Whitfield (col 182) promised, in response to a question by Annabel Goldie, to provide additional information about how Guernsey deals with situations where it is desirable to withhold the address of a vulnerable young person who is registered to vote.

3. Accordingly, he provided the following further information (by e-mail):

“As promised, I have considered the question posed in respect of the impact of registering 15 year olds and the protection of their identities when necessary.

“Firstly, I can confirm that the details of “rising attainers” – those fifteen year olds who have preregistered – are not included on the printed public version of the Roll until their 16th birthday. As I outlined in my evidence this morning, the dates of birth of applicants are used solely within the Electoral Roll Office and are not included in any printed versions of the Roll provided to candidates, Returning Officers or public inspection.

“Secondly, whilst I appreciate the question revolved around the registration of 15 year olds and the possible data protection considerations of protecting their identity, it might be worthwhile to step back and consider anonymous registration generally in Guernsey. It is, of course, a sad fact, but in all communities there is a small group of vulnerable people who, for their own safety, cannot allow their name or address to be made known publically. I understand that in the United Kingdom (and indeed many other Commonwealth countries) such people are able to register on the Electoral Roll anonymously, subject to the support of a court orders or a signed attestation.

“In Guernsey, however such provisions have not been introduced. Within a community the size of Guernsey (just 24 sq miles), it is relatively easy to find out where a person is living and working, and simply registering anonymously on the Electoral Roll is unlikely to offer any real protection. Non-harassment Court Orders usually state the address of the complainant as the Order restrains the person concerned from visiting particular premises (ie the complainant’s address) so where concerns have previously been identified and court proceedings initiated, individuals are typically already aware of addresses.
“It would therefore not be possible in Guernsey to protect the address of a 16 year old who wishes to register on the Roll.”

4. Finally, Annabel Goldie also asked at the end of the meeting for some further briefing on individual electoral registration and the Electoral Registration and Administration Act 2013. There was brief coverage of this in the SPICe paper circulated for the meeting on 31 January (paper 1, page 8-9), including links to relevant websites; but it was felt that a concise summary of the main issues would be of value to the Committee. SPICe is currently preparing this, and it will be circulated shortly. Scottish Government officials have also been asked to comment on the implications of IER and the 2013 Act at the informal briefing arranged for 28 February.

Clerk to the Committee
18 February 2013
At its meeting on 21 February, the Committee took oral evidence (by videoconference) from Stephen Carse (Government Economic Adviser, Economic Affairs Division of the Treasury, Isle of Man Government). Mr Carse has now written with the following clarification of part of his evidence.

“In column 191 of the draft report on proceedings there is recorded my statement on the manpower resourcing of our electoral registration office:

“To help me to do that, I have within my division, which is part of the Government Treasury, four professionals and seven support staff, who help the professionals in their everyday duties. They are mainly responsible for the compilation and administration of the electoral register.”

“I feel I ought to point out that the staff in the division are not employed exclusively on registration matters. Of the four professional staff, all of whom are economists, only I am at all concerned with registration matters. Further, of the seven support staff, as a rule of thumb I estimate that something like two-thirds of their time is spent assisting the professionals on non-electoral matters. Over the full course of election year this ratio becomes something more like half and half.

“I thought if left unclarified your Committee might be left with an inaccurate perspective on the resourcing requirements for electoral registration here.”

Clerk to the Committee
March 2013
There is a possible vires issue in relation to Section 3 of the Scottish Independence Referendum (Franchise) Bill (‘the Franchise Bill’) which the Committee may wish to consider.

Section 3 provides: ‘A convicted person is legally incapable of voting in an independence referendum for the period during which the person is detained in a penal institution in pursuance of the sentence imposed on the person.’

The Committee may seek to satisfy itself that this provision is within the competence of the Parliament in terms of s29(2)(d) of the Scotland Act 1998 (compatibility with ECHR rights) in light of a decision by European Court of Human Rights in 2005 that the United Kingdom’s general ban on prisoner voting was incompatible with the Convention.

Summary: I think it more likely than not that the draft section 3 is within vires but there are possible question-marks.

Law on Prisoners’ Voting Rights

In light of the 2005 case Hirst (No.2)¹ the UK Government has asked a Joint Committee of the UK Parliament to consider the implications of this decision and may recommend a change to the law.²

However, the Scottish Government in its Policy Memorandum published with the Franchise Bill makes clear ‘convicted prisoners will not be able to vote in the referendum irrespective of whether UK electoral law is amended to extend the vote to prisoners for parliamentary elections before the referendum in 2014.’³

There is a strong argument that section 3 of the Bill can be distinguished from the situation in Hirst (No.2). The relevant provision of the ECHR is Article 3 of Protocol 1 (‘A3P1’) which states: “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.” (emphasis added).

In light of the specific reference to ‘choice of the legislature’ the European Court has found that A3P1 does not apply to referendums, leaving states free to determine the limit of the franchise for referendums.⁴ It has distinguished referendums from

¹ Hirst v the United Kingdom (No 2) [2005] ECHR 681.
³ Franchise Bill Policy Memorandum, para 13.
⁴ See reference to this distinction in Franchise Bill Policy Memorandum, para 41.
parliamentary elections in these cases: Bader v Austria 1996⁵; Niedzwiedz v Poland 2008⁶. In the latter, the Court stated: ‘…the obligations imposed on the Contracting States by Article 3 of Protocol 1 are limited to “the choice of the legislature” and do not apply to the election of a Head of State or to referendums.’⁷

It is also the case that a challenge to UK law in relation to the 1975 referendum on continued membership of the EEC (X v United Kingdom, Application No.7096/75) was unsuccessful, with the European Commission on Human Rights ruling the application inadmissible precisely because it was concerned with a referendum and not an election.

It can, furthermore, be noted that the Court in Hirst (No.2) provided the UK with a wide margin of appreciation in terms of how the right to vote issue should be resolved (Grand Chamber para. 61), provided the restriction is not ‘general, automatic and indiscriminate’ (para 82).

Can section 3 be seen as a ‘general, automatic and indiscriminate restriction’? Possibly. But even if it is viewed in this way there is still a strong argument that it would be saved by the precise nature of the obligation in A3P1 – i.e. its focus on choice of the legislature and not referendums.

Caveats

While the distinction between a referendum and an election to the legislature does seem to be a convincing defence of the vires of section 3 there are a number of reasons why the outcome of any legal challenge may be unpredictable:

1. Domestic courts take account of ECHR case law, they do not necessarily follow it (Human Rights Act 1998 s2). It would be open a domestic court to read the implications of A3P1 differently than did the European Court of Human Rights. They are generally not inclined to do so (the so-called ‘Ullah Principle’) but there have been strong criticisms of the UK position by legal commentators: http://ukconstitutionallaw.org/2011/05/18/jeff-king-should-prisoners-have-the-right-to-vote/

2. One of the reasons that the application in X v United Kingdom was deemed inadmissible was that the referendum on the EEC was deemed to be of a ‘purely consultative character’. Will the independence referendum be seen to be purely consultative and if not could that lead to a different reading of A3P1? I would suggest that in light of Bader v Austria there would not be a different reading of A3P1, but the position is perhaps open to question.

3. It might be argued that the law has moved on and the European Court is becoming more protective of the right to vote; could this lead to a more ‘purposive’ interpretation of A3P1 which might catch referendums within its remit? (This argument was advanced by Paul Reid, Advocate in a blog of 12

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⁵ Bader v Austria (1996) 22 EHRR CD213, see No. 7096/75, Dec. 3.10.75, D.R. 3 p.165.
⁷ In this case the Court also referred to a number of other cases in which the same limitation applied.

4. It has been argued that it is logically incongruous that the ECHR guarantees to prisoners a right to vote in parliamentary elections but not on such an important issue as independent statehood, and on this basis that a court might read such a right into A3P1. (See for example http://ukhumanrightsblog.com/2013/03/12/no-prisoner-votes-in-scottish-independence-referendum-andrew-tickell/ See also http://ukconstitutionallaw.org/2013/03/13/paul-reid-independence-the-referendum-the-franchise-and-prisoners-stormy-waters-ahead/)

5. The European Union Charter of Fundamental Rights Articles 39 and 40 provide for the right of every citizen to vote respectively in elections to the European Parliament and in municipal elections. In other words, this too does not seem to cover referendums. However, if we also take into account the International Covenant on Civil and Political Rights to which the United Kingdom is a party, Article 25 provides a broader right: ‘To take part in the conduct of public affairs’. The Human Rights Committee which interprets the Covenant has interpreted this to include the right to vote in referendums: ‘Citizens also participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referendum’ (General Comment 25, para 6); and any restrictions on this right should be ‘objective and reasonable’ (General Comment 25, para 4).[9] The Scottish Parliament is not bound to act compatibly with this Covenant but its terms could be considered by a court in interpreting A3P1 of the ECHR.

Conclusion

Challenges could be brought either by way of a SA section 33 reference by a law officer or post-enactment by way of a judicial review application. I am not persuaded that either challenge would be successful but the caveats I mention should be considered.

18 March 2013

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Appendix

Franchise Bill Explanatory Notes

Offenders in prison etc. not to be entitled to vote

9. 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 the Bill 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.

Franchise Bill Policy Memorandum

13. Convicted prisoners detained in a penal institution will not be eligible to vote in the 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. While the franchise at the referendum is a matter for the Scottish Parliament to determine, the franchise at elections in Scotland (as throughout the UK) is a matter for the UK Parliament. The UK Government announced in November 2012 that it would ask a committee of parliamentarians to consider a range of options set out by the Government in response to successive rulings by the European Court of Human Rights that the UK’s current blanket ban on prisoners voting in elections to state legislatures breaches the European Convention on Human Rights. The committee will report later in 2013. The ECHR ruling (and human rights case law) does not relate to referendums, and convicted prisoners will not be able to vote in the referendum irrespective of whether UK electoral law is amended to extend the vote to prisoners for parliamentary elections before the referendum in 2014.

40. The Scottish Government is satisfied that the provisions of the Bill are compatible with the European Convention on Human Rights (ECHR). The publicly available register of local government electors is used, in line with election law and subject to the necessary safeguards to prevent impersonation and ensure a fair referendum. The Bill also applies existing criminal offences for the purposes of the RYV, where necessary, none of which are incompatible with Convention rights.

41. The Bill prohibits convicted prisoners who are detained in pursuance of their sentence from voting in the referendum. As discussed in paragraph 13, the Scottish Government is satisfied that this approach is compatible with the ECHR. Article 3 of Protocol 1 to that Convention, the right to free elections, does not create rights that would apply to an independence referendum.'
1. Decision on taking business in private: The Committee agreed to take items 3 and 4 and further consideration of its draft report in private, and agreed to consider its approach to the scrutiny of the Scottish Independence Referendum Bill Financial Memorandum in private at future meetings.

2. Scottish Independence Referendum (Franchise) Bill: The Committee took evidence on the Financial Memorandum from—

   Steve Sadler, Head of Elections Team, and Heather Wells, Policy Officer, Scottish Government.

3. Scottish Independence Referendum (Franchise) Bill (in private): The Committee agreed to write to the lead committee.
Scottish Independence Referendum (Franchise) Bill: Financial Memorandum

09:30

The Convener: Our second item of business is to take evidence from the Scottish Government's bill team as part of our scrutiny of the financial memorandum to the Scottish Independence Referendum (Franchise) Bill. I welcome to the meeting Steve Sadler and Heather Wells—a combination of surnames that I have heard before somewhere. I do not know whether you are going to give us a wee dance or something at the end of your presentation.

I invite one of you to give a brief opening statement to the committee.

Steve Sadler (Scottish Government): Good morning and thank you, convener.

The Scottish Independence Referendum (Franchise) Bill sets out the framework to allow all those who are aged at least 16 on the date of the referendum to be able to register for and vote in the referendum. The costs associated with the bill, which are estimated in the accompanying financial memorandum, centre on the extra expense that will be incurred by registration officers in registering any young person who will be at least 16 by the time of the referendum but who would not be included on the local government electoral register under existing arrangements.

A young voter registration form will be distributed to all households in Scotland later this year at the same time as the standard annual canvass form. Co-ordinating with the existing canvass process in that way, rather than running a separate registration process, is intended to ensure that the process is as simple as possible for the voter, while keeping the administrative burden and cost to registration officers to a minimum.

The process that forms the basis of the proposals in the bill has been developed after consultation with registration officers. Similarly, the estimated costs identified in the financial memorandum have been developed in consultation with those who are involved in the current registration process. Accordingly, we have received information from registration officers, printers and software providers that forms the basis of the estimates for cost in the five broad categories set out in the memorandum. Those categories are testing the young voter registration form, which we have set in train already; changes to the electoral management software; printing and distributing young voter registration forms;
sending reminders to those who failed to complete the forms; and other costs occurring outside the main canvass period. Information on all the categories is set out in the financial memorandum. We are happy to answer any questions from the committee.

**The Convener:** Thank you. I will open up with some questions and colleagues will come in in due course.

Can you give us a wee bit more detail on how you arrived at the sum of £240,000 for the five software systems?

**Heather Wells (Scottish Government):** Between them, five different software companies provide the electoral management software for the 15 electoral registration officers in Scotland. They each cover a different number. Three of them are in-house systems that relate to a single registration area. The other two are much larger national companies that cover multiple electoral registration areas.

Before Christmas, we sent each of the software providers a specification setting out what we would need the software to do to ensure that we were able to register and process the details of the additional young people we would need to register. We also sent the software providers a full copy of our proposals and the draft bill to help them to get a fuller sense of what we were looking to do. We received quotes from all the providers on the back of that. Obviously, they are initial quotes based on that initial specification. Those are the quotes that are reflected in the financial memorandum. They vary quite significantly in size but, as I said, some of them cover only one registration area whereas some of them cover multiple areas.

We have put together a revised specification as our proposals have developed to the final versions that you can see in the bill and the policy memorandum. The specification has not changed significantly from the version that we sent around before Christmas so we would not expect any significant changes to the initial quotes that we received.

Once we have the date of the referendum which, as you know, is due to be announced tomorrow, we will send out the revised specification to software suppliers to get revised quotes from them.

**The Convener:** Thank you very much for that comprehensive answer. The financial memorandum states that

“it is difficult to estimate on a national basis how much extra resource might be required by EROs to carry out the responsibilities conferred on them by the bill.”

Why is it difficult to estimate that when you were able to put together an estimate for software costs? What are the broad parameters of the additional costs—are we talking about a few thousand pounds or tens of thousands of pounds?

**Heather Wells:** Before Christmas, we asked EROs to give us a sense of the different costs that they might expect to incur, as we did with the software companies. The financial memorandum reflects their feedback on those different areas of cost. It was not possible to specifically quantify some of those areas. Many are linked to staffing and resources, and depend on how much staffing pressure there is at that moment and whether additional staff resources would be required to do those activities.

The electoral registration cycle is normally subject to peaks and troughs. There are peaks around the canvass period and around individual electoral events but, over the course of any given year, it depends on when different events fall. It can be difficult to quantify too far in advance whether things will be met through existing staff resources, especially as timings will be different because the 2013-14 canvass is being delayed and we also have individual electoral registration.

At particularly busy periods, for example at the canvass, EROs tend to take on additional temporary staff. If EROs were experiencing particularly busy periods, they might need to do that for this, but then that would be in line with the additional staffing that they had taken on. Perhaps Steve Sadler would like to add to that.

**Steve Sadler:** No, I do not think that I can. That is great.

**Heather Wells:** The financial memorandum is split between in-canvass costs and outwith-canvass costs, and the 40 per cent outwith-canvass cost is partly designed to help absorb any fluctuations in the staffing and resources that might not be possible to precisely predict too far in advance.

**The Convener:** The financial memorandum notes that the United Kingdom Government intends to introduce a new registration system—individual electoral registration—under the Electoral Registration and Administration Act 2013, which it states

“is likely to place an additional burden on EROs if it is introduced in Scotland in the lead up to the referendum.”

Although the UK Government will reimburse EROs, could you tell us more about the additional costs, which the financial memorandum states

“the interaction between the concurrent demands on registration administrators could give rise to”? 
Steve Sadler: We have been speaking to the Cabinet Office at official level for a couple of years in the run-up to the introduction of individual electoral registration. At the official and ministerial levels of the Scottish and UK Governments, we have agreed that in effect neither Government will do anything to get in the way of the referendum or the introduction of IER.

The UK Government has repeatedly pointed out that in the Westminster legislation there is the option of staggering the introduction of IER in the different parts of the UK. The UK Government has said that as soon as the date of the referendum is announced we will start detailed conversations at official level to map out the timing of the implementation of IER alongside the timing of registration for the referendum, to ensure that any overlap or additional burden is kept to a minimum.

As Heather Wells said, we are very close to knowing the date of the referendum and in expectation of that we are due to meet Cabinet Office officials very shortly to ensure that we put into practice the idea that the two processes will not run to the detriment of each other.

The Convener: My final question is about the cost of sending out what has been assessed as 40,000 reminders. Paragraph 14 of the financial memorandum, which considers the cost of printing and postage, states that the return postage to send and receive 40,000 letters to random addresses across Scotland would cost £4,800, which is only 12p per household. How can that figure be accurate?

Heather Wells: We can give you a breakdown of how the figures for printing and distributing reminders were arrived at.

The Convener: I have the printing costs here; I am not arguing about that, nor about the cost of the envelopes. I am wondering how postage could cost £4,800 for sending out 40,000 letters and getting 40,000 back. If you sent them second class, that would be £1 a household: 50p there and 50p back. That would be £40,000. The difference seems massive, unless you have an incredibly special deal with the Post Office, which I doubt. If you were delivering 40,000 letters in Edinburgh, you might get a good deal, but that figure for delivering 40,000 letters randomly across Scotland seems cheap.

Heather Wells: The figure is arrived at partly because of what you have just identified—that we are not individually sticking second-class stamps on to those letters. The printing companies have postage licences, and at least one of them is principally a postage company and so would pay very different rates from those that you or I would pay to stick stamps individually on to letters. The postage rates that we have reflected in the financial memorandum are based on the rates we have been given by the printing companies.

The Convener: The figure of 12p for postage there and back still seems pretty cheap.

Michael McMahon (Uddingston and Bellshill) (Lab): I want to go into another issue—the delegated powers provisions. We know that such provisions get added to lots of bills, but I do not think that I have ever seen one that says, “We don’t intend to use it, nor do we think that we will, but if we are going to use it, it won’t cost any more because the people involved will just be doing their ordinary jobs.” Can you give us an example of a precedent for this type of delegated powers provision?

Steve Sadler: The wording is partly based on the fact that we need to allow registration officers to conduct the registration of 16-year-olds for the first time. We have to ensure as best we can, and subject to the agreement of Parliament, that that is through by June—certainly by the summer recess. As we have said in the memorandum, we need to provide for possibly needing to work outside that timescale, so it is almost an insurance policy.

Michael McMahon: Is that all it is—a precaution?

Steve Sadler: Yes. At the moment, we have no intention of using the power. However, when the Government announced last October that it was looking to allow all 16-year-olds to have the vote, that meant a very short timetable. The first thing we did was to have initial discussions with registration officers, to work back from when they would want to start the canvass period in the autumn or winter of this year and when they would need legislative provision to allow them to capture the details of younger people for the first time. That is why we had to put together a parliamentary timetable that is quite tight. That is the context of the wording in the memorandum.

Michael McMahon: Is it uncommon to do it this way, or are there other examples of these types of delegated powers?

Steve Sadler: I cannot think of one off the top of my head. In the context of the bill, it is because the timing is short. We are not going outside any standing orders of Parliament. However, as the Referendum (Scotland) Bill Committee has identified, there is little scope for slippage in the timetable.

Gavin Brown (Lothian) (Con): I have a couple of brief points. Is it fair to say that £25,000 for testing the young voter registration form is a concrete cost, as opposed to an estimate?

Steve Sadler: Yes.
Gavin Brown: The convener touched on the software adaptation costs of £240,000. I am no information technology expert and do not have access to the detail, but that figure seems to me to be on the low side—are you sure that that will be enough to cover the development of five software systems? How confident are you that the figure is fair?

Steve Sadler: We are as confident as we can be at this stage. As Heather Wells has said, we went to the software providers, which are both commercial companies and in-house teams within the registration units of local authorities, to ask how much it would cost to make that small change to the registration system on the basis of the specification we had. Those are the figures we were given. Although the bill’s provisions have changed slightly since December in some technical areas, we do not think that the specification has changed to the extent that the estimates are no longer valid.

09:45

Heather Wells: The financial memorandum acknowledges that these are contractual arrangements between two parties, neither of which is us. Moreover, as with the printing companies, each of the companies the contract is held with might theoretically change in time. The financial memorandum acknowledges that there are margins of uncertainty in that respect but, as Steve Sadler has said, these are our closest estimates based on the information that we have or have sought. The quite detailed specification that we have given the companies to work with has, I hope, helped us to pin down as concrete a figure as we can get at the moment.

Gavin Brown: The convener also asked a couple of questions on the costs of sending out reminders for return of young voter registration forms. I understand that, as with every other voter form, you will be sending the initial young registration form out to every household. However, the financial memorandum says that a household “will only be sent a reminder if the ERO has reason to believe the form should have been returned”.

Given that, presumably, we do not know where all the 15, 16 and 17-year-olds actually are—after all, that is why you are sending the forms to every household—how in practice will EROs have “reason to believe” that a household should have returned a form?

Heather Wells: In the bill we make provision for EROs to be able to access education records as a means of cross-checking information. They can use the information from the education records to prepopulate the young voter registration forms before they are sent out and, in the event that they do not receive a form, to check whether they should have expected to have received one, in which case they should chase the matter up. The provision provides a level of verification that will allow them to focus their attention on chasing non-returns where they should have had a return instead of non-returns from people from whom they would never have expected a return anyway.

Gavin Brown: Thank you.

John Mason (Glasgow Shettleston) (SNP): On the same theme, I understand that a special form for young voters will be sent out with the usual envelope; the form will—one hopes—be returned; and then, as Mr Brown has been exploring, there will be some targeting. Am I right in thinking that some councils such as Glasgow City Council have done extra work, including going round doors, to try to push up electoral registration numbers? After all, there are certain parts of the country—the poorer parts, I would suggest—where registration is low.

Steve Sadler: That is right. In the process of looking closely at and developing the bill’s proposals, it has been confirmed to us that the 15 electoral registration officers all operate independently and have different means of targeting local difficulties or, as you say, areas of non-registration. There is no one registration system or application of such a system across the country.

John Mason: But we are not planning to do any extra work on targeting younger people—or, indeed, anyone. Would that be entirely up to the local authority?

Steve Sadler: I am sorry—I missed the point. In the main Scottish independence referendum bill, which will be introduced soon, the Electoral Commission will have a statutory responsibility for public awareness of the referendum campaign, which will include a registration component. Last year, the commission ran a public awareness campaign ahead of the local elections, the first part of which was to encourage people to register and the second part of which was to inform people how and when to vote.

Our initial discussions with the commission have confirmed that it is planning to do the same thing again. There will be a drive to encourage people to register to vote, including work with groups involved with young people and young people’s interests to find out whether specific aspects of the public awareness campaign can be targeted on young people to encourage them to vote.

John Mason: But, given that we are examining the bill’s financial aspects, I take it that we are not putting any extra resources into local authorities to help them to knock on more doors.
Steve Sadler: Not into local authorities. However, the financial memorandum to the main bill will set out the estimated provision for the Electoral Commission, which will be a fairly sizable amount of money, including, based on the figures that it has given us, an element for public awareness in general.

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I want to look at the area in the financial memorandum that relates to registration appeals and offences. Paragraph 21 sets out that the bill “applies standard provisions for electoral registration appeals to be made in relation to the Register of Young Voters.”

It goes on to say:

“Registration appeals are not common”. Electoral registration officers have said that that should not give rise to much work for them and you say that registration appeals are not common. Can you tell us how common they are?

Heather Wells: The short answer is no. Off the top of our heads, we could not put a figure to that. We could certainly ask electoral registration officers for information specific to each area if that would be helpful.

Jamie Hepburn: Although you have discussed it with electoral registration officers and you say that they are relaxed about it, it would probably be useful to have it quantified.

Steve Sadler: I take your point that it would be helpful to the committee to have specific details. However, electoral registration officers and the Scottish Assessors Association, which we have been dealing with on this, have been happy with the description and with the general impression that registration appeals are quite rare.

Jamie Hepburn: I wonder whether the answer will be the same to my next question. You set out that the bill contains offence provisions relating to the registration of young voters and say:

“The Scottish Government does not expect any significant level of prosecutions ... and therefore the cost implications for the criminal justice system will be minimal.”

What is the number of prosecutions for electoral registration offences in recent years?

Steve Sadler: Can we give you the same answer and say that we will come back to you soon on that?

Jamie Hepburn: I thought that you might.

Steve Sadler: This time it was not electoral registration officers but the Crown Office that was happy with our description. It is very rare for electoral offences to be proceeded with in that way. However, we can certainly get some figures for the committee.

The Convener: The financial memorandum states:

“The costs associated with the provisions of the Bill can be separated into the following broad categories—

- Testing the Young Voter Registration form
- Changes to electoral management software
- Printing and distributing Young Voter Registration forms
- Sending reminders to those who fail to complete Young Voter Registration forms
- ‘Outwith-canvass costs’ such as rolling registration.”

What about the cost of inputting the information that is received? There must be some kind of cost to that.

Heather Wells: That takes us back to an earlier question. The cost of that is part of the general processing and administrative costs, which are really staffing and resourcing. As we said earlier, it depends on the other burdens on staff at the time whether that work can be carried out by existing staff or whether additional resource is needed to make that happen.

The Convener: But unless the staff are unproductive and have time on their hands at the moment, surely there must be some kind of cost to it.

Heather Wells: Even if we got 100 per cent registration among 16 and 17-year-olds, which would be fantastic and which obviously we hope for, they would still comprise less than 3 per cent—I think that it is something like 2.7 per cent—of the number of voters. The numbers that we are talking about are not that high. In any individual electoral registration area, the numbers will be fairly small. It is additional work but not on an enormous scale.

The Convener: In Glasgow, for example, if it is 2.7 per cent, that is still about 15,000 people. That is quite a lot on top of existing work.

Steve Sadler: It is. To go back to a previous answer, we have spoken to registration officers about that and, by and large, they have taken the view that 2 to 3 per cent of additional inputting of data will not create a significant burden on them. In paragraph 18 of the financial memorandum, we say that there is an amount of money within that provision that in effect provides a contingency for other anticipated costs, including basic administration costs. The registration officers to whom we have spoken were reasonably happy—I will not say that they were delighted—with the way that we have covered that cost in the estimate.

The Convener: I raised the issue of the cost of posting reminder letters, which is about £60 for 1,000. Royal Mail will blanket an area for about £70 for 1,000. However, you are sending letters...
out to specific addresses and there is the cost of the replies as well. I know that Gavin Brown has got excited about this, and I am sure that other colleagues would be keen to know who these companies are that deliver to specific random addresses for that kind of cost. We are talking about a tenth of the cost of a first-class stamp. Apparently there are no costs for stuffing envelopes and so on—I am sure that that is done mechanically. Could we get further information on that? We must all be paying over the odds when we are circulating our parliamentary newsletters.

I am not trying to make a sarky comment; I just doubt that that £4,800 is a realistic figure, even if you are blanketing a whole area, or saying, “Do every house on a council estate.” Specific addresses, when the guy has to read the address to deliver the letter, is much more time consuming for the Royal Mail or whoever the delivery agent is. Even if you have just joined the Royal Mail and it does a sweetener deal to get you on board, you cannot get as cheap as that.

Steve Sadler: We can certainly get back to you quickly with some additional information on that.

The Convener: That would be appreciated. If that figure is genuine, we want to know who is able to do that.

John Mason: As long as it is not commercially sensitive.

The Convener: Indeed.

Those are all the questions, so I thank both witnesses for their detailed answers.

09:56
Meeting continued in private until 10:26.
Scottish Independence Referendum (Franchise) Bill

Scottish Government Follow-up to Finance Committee 20 March 2013

Scottish Government officials gave evidence to the Scottish Parliament’s Finance Committee on 20 March 2013 on the Financial Memorandum for the Scottish Independence Referendum (Franchise) Bill, and undertook to follow up with the Committee on the following issues.

1. How common are registration appeals?

The Financial Memorandum states:

“Registration appeals are not common and EROs have confirmed that they do not expect to deal with an increased number under the Bill.”

According to EROs, three registration appeals have been made in Scotland since 2010. All three were made by prisoners; two of these were made in recent weeks.

Under electoral legislation EROs do not have the power to register convicted prisoners, so appeals from such prisoners are referred to a Sheriff in the first instance.

2. What is the number of prosecutions for electoral registration offences in recent years?

The Financial Memorandum states:

“The Bill also contains offence provisions in relation to the RYV. These are not new offences, but standard electoral offences replicated and applied to the RYV. The Scottish Government does not expect any significant level of prosecutions as a result of the legislation and therefore the cost implications for the criminal justice system will be minimal.”

The Electoral Commission works with the Association of Chief Police Officers to produce reports on the number and outcome of alleged electoral malpractice cases. The most recent report\(^1\), published in May 2012, contains details of the cases reported in 2011. The report states that of a total of 224 cases reported across the UK in the 2011 reporting period, 6 cases of electoral malpractice were reported by the police in Scotland. It should be noted that the data includes all cases which were reported; not all of these proceed to prosecution and conviction. The report states that no case reported to the police during 2011 affected the outcome of the election to which it related, or caused an election to be re-run.

While the Commission’s report does not break down the 6 Scottish cases into categories of electoral offence, data from 2009, 2010 and 2011 show that, typically, electoral registration offences account for around 20% of all cases reported overall.

We therefore consider that the number of any prosecutions in connection with the Scottish Independence Referendum (Franchise) Bill, which relate primarily to registration, would be likely to be minimal.

3. Details of expected costs for reminder notices

The Financial Memorandum estimates the cost of sending reminders to those who fail to complete the Young Voter Registration forms as being approximately £6,000. The Committee sought further information on how this figure was calculated.

Background

Only those households that include 15 year olds who will be at least 16 by the date of the referendum will need to complete and return the Young Voter Registration forms. EROs will only chase up households that have not returned a Young Voter Registration form if they have reason to believe (by cross-referencing with education records) that an eligible young person is resident in that household.

The calculations make a number of assumptions which have the effect of placing the estimate of the likely number of reminders at the higher end of the possible scale. In particular, the calculations assumed that:

- around 120,000 households will need to return the Young Voter Registration forms (on the basis that around 120,000 16 and 17 year olds will be eligible to vote.
- approximately a third of households (i.e. 40,000) do not return their canvass forms in response to the initial letter, and need to be issued with reminders.
- all of the households being chased for not returning a Young Voter Registration form have returned their main canvass form, so are not receiving a reminder for that form anyway (in practice, if households have not returned either form they could be sent a YVR reminder at the same time, and in the same envelope, as their main canvass form reminder, incurring no additional postage or envelope costs as a result of the provisions in this Bill).
- all of the households that receive a postal reminder respond to it, and do so by post (i.e. that return postage needs to be paid for every household receiving a reminder. In practice this is unlikely to be the case, as some households would be likely to respond electronically while others might not respond at all).

Calculations set out in the Financial Memorandum

The estimates set out in the Financial Memorandum were calculated on the basis of advice received from printing companies that printing and postage costs accounted for roughly 25% and 75% respectively of the cost of printing and distributing forms.

We have looked again at this area of the financial memorandum (and our assumptions in drafting the section on sending reminders) in the light of the Committee’s questions, On the basis of information received from contractors currently providing a similar service to registration officers in Scotland, we have
concluded that the cost of issuing and receiving reminders purely in respect of the Young Voters Registration Form to 40,000 households would be more than the £6,000 included in paragraph 14 of the Financial Memorandum. While we anticipate that, for the reasons set out in the section on assumptions above, significantly fewer households than 40,000 are likely to need to be issued with and return by post a Young Voter registration reminder form, the estimate set out in the Financial Memorandum in relation to this aspect was too low. It is helpful that the Finance Committee has highlighted this during its scrutiny of the Financial Memorandum.

As we mentioned when we gave evidence to the Committee, we have already written to software suppliers for revised quotes for any necessary changes to electoral software as a result of the provisions in this Bill. We are now doing the same in relation to printing companies, and will submit any revisions to the estimates provided in the Financial Memorandum ahead of Stage 3.

Steve Sadler
Scottish Government
23 April 2013
I understand that it was not possible for you to take up an offer to give oral evidence to the Referendum (Scotland) Bill Committee on the child protection implications of the Scottish Independence Referendum (Franchise) Bill. The Committee therefore agreed, at its meeting on 14 March, to write to you to seek written evidence instead.

The Franchise Bill sets out, at section 2, who is entitled to vote in the referendum on independence. Among other criteria, those entitled to vote will have to be at least 16 years old on the date of the referendum. In practice, this means Electoral Registration Officers will have to collect the details of 15-year olds, and possibly a small number of 14-year olds depending on the date of the referendum (which has not yet been announced). Sections 4 to 9 of the Bill concern the registration of young people, and in particular create a register of young voters and set out how information on the register is to be handled, make provision for declaration of local connection for young people, and detail the canvass form for young people (see Schedule 2).

The Committee understands the Scottish Government undertook some informal consultation on the draft Franchise Bill with the Scottish Child Protection Committee Chairs Forum and some other organisations, and that views were sought on who should have access to the “marked register” and specific arrangements for vulnerable young people to allow them to register to vote and vote without disclosing their address.

Members of the Committee are particularly interested in whether any concerns you may have had have been addressed by the Bill as introduced. In addition, the Committee is interested to know whether young people who are the subject of a non-disclosure order, or are vulnerable more generally, are afforded sufficient protection by the provisions of the Bill. It would be helpful to know whether, in your view, the canvass form is designed adequately to take account of child protection issues. The Committee has also been taking evidence about providing information and raising awareness in schools about the registration of young people, and you may have views on this from a child protection perspective.

A copy of the Bill and its accompanying documents can be found on the Parliament’s website.

Official reports of the evidence already taken by the Committee can be accessed via the Committee’s webpage.

I would welcome any views you or members of the forum may have, either on the issues mentioned above or any other issues arising from the Bill to which you wish to draw attention.
The Committee will be taking evidence from the Deputy First Minister at its meeting on 28 March, and it would be particularly helpful if any comments you have could be received by Friday 22 March, to enable them to be circulated for that meeting. If you wish to comment but cannot meet that deadline, I suggest you contact the Committee clerks to discuss timing, using the contact details at the top of this letter.

18 March 2013
The Scottish Child Protection Committee Chairs Forum (SCPCCF) has been in existence since the child protection reform programme and plays an important role in working with the Scottish Government to ensure the development and delivery of efficient processes, common standards and the timely introduction of continuously improving services for protecting children during a lengthy time of uncertainty for Scottish Public Services.

We welcome the opportunity to comment on the Scottish Independence Referendum (Franchise) Bill in relation to potential child protection implications. At a recent Forum meeting, members commented on several aspects of the Bill.

Generally, members stated that they are satisfied with the provisions around who has access to the marked register and the specific arrangements for vulnerable young people to allow them to register to vote and vote without disclosing their address.

Members are also satisfied that young people who are subject to a non-disclosure order or are vulnerable, more generally, are afforded sufficient protection by the provisions of the Bill.

The canvass form takes account of child protection issues but members felt that it would be helpful to have additional guidance on the form that clarifies the process for a young person to register using another contact address, when they are living away from home because of their vulnerability or other child protection issues.

While the Forum members are positive about the provisions in the Bill, they are looking for clarity about the processes that will ensure local authorities, social workers and other support staff are informed about the child protection provisions, the implications and their role in ensuring that young people can vote safely. I hope that these comments are helpful.

Donald Urquhart
Chair
27 March 2013
You may be aware that a paper prepared by the Committee’s adviser, Professor Stephen Tierney, on a possible vires issue relating to prisoners’ voting rights was circulated to members of the Committee for information. A copy of the paper is attached.

After today’s Committee meeting, Annabel Goldie suggested it would be helpful if the Scottish Government’s view on the possible competency issue raised in the paper could be sought in advance of your evidence session on 28 March.

I would therefore be grateful for a response as soon as possible to facilitate the evidence session. I recognise however this might not be possible given the timescale and the nature of the issue. If this is the case, it is likely the Committee will explore the issue with you at next week’s meeting.

21 March 2013
Competence Issue: Background

There is a possible vires issue in relation to draft Section 3 of the Scottish Independence Referendum (Franchise) Bill (‘the Franchise Bill’) which the Committee may wish to consider.

Section 3 provides: ‘A convicted person is legally incapable of voting in an independence referendum for the period during which the person is detained in a penal institution in pursuance of the sentence imposed on the person.’

The Committee may seek to satisfy itself that this provision is within the competence of the Parliament in terms of s29(2)(d) of the Scotland Act 1998 (compatibility with ECHR rights) in light of a decision by European Court of Human Rights in 2005 that the United Kingdom’s general ban on prisoner voting was incompatible with the Convention.

Summary: I think it more likely than not that the draft section 3 is within vires but there are possible question-marks.

Law on Prisoners' Voting Rights

In light of the 2005 case Hirst (No.2) the UK Government has asked a Joint Committee of the UK Parliament to consider the implications of this decision and may recommend a change to the law.

However, the Scottish Government in its Policy Memorandum published with the Franchise Bill makes clear ‘convicted prisoners will not be able to vote in the referendum irrespective of whether UK electoral law is amended to extend the vote to prisoners for parliamentary elections before the referendum in 2014.’

There is a strong argument that section 3 of the Bill can be distinguished from the situation in Hirst (No.2). The relevant provision of the ECHR is Article 3 of Protocol 1 (“A3P1”) which states: “The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.” (emphasis added).

In light of the specific reference to ‘choice of the legislature’ the European Court has found that A3P1 does not apply to referendums, leaving states free to determine the limit of the franchise for referendums. It has distinguished referendums from

1 Hirst v the United Kingdom (No 2) [2005] ECHR 681.
3 Franchise Bill Policy Memorandum, para 13.
4 See reference to this distinction in Franchise Bill Policy Memorandum, para 41.
parliamentary elections in these cases: Bader v Austria 1996\(^5\); Niedzwiedz v Poland 2008\(^6\). In the latter, the Court stated: ‘… the obligations imposed on the Contracting States by Article 3 of Protocol 1 are limited to “the choice of the legislature” and do not apply to the election of a Head of State or to referendums.’\(^7\)

It is also the case that a challenge to UK law in relation to the 1975 referendum on continued membership of the EEC (X v United Kingdom, Application No.7096/75) was unsuccessful, with the European Commission on Human Rights ruling the application inadmissible precisely because it was concerned with a referendum and not an election.

It can, furthermore, be noted that the Court in Hirst (No.2) provided the UK with a wide margin of appreciation in terms of how the right to vote issue should be resolved (Grand Chamber para. 61), provided the restriction is not ‘general, automatic and indiscriminate’ (para 82).

Can section 3 be seen as a ‘general, automatic and indiscriminate restriction’? Possibly. But even if it is viewed in this way there is still a strong argument that it would be saved by the precise nature of the obligation in A3P1 – i.e. its focus on choice of the legislature and not referendums.

**Caveats**

While the distinction between a referendum and an election to the legislature does seem to be a convincing defence of the vires of section 3 there are a number of reasons why the outcome of any legal challenge may be unpredictable:

1. Domestic courts take account of ECHR case law, they do not necessarily follow it (Human Rights Act 1998 s2). It would be open a domestic court to read the implications of A3P1 differently than did the European Court of Human Rights. They are generally not inclined to do so (the so-called ‘Ullah Principle’) but there have been strong criticisms of the UK position by legal commentators: http://ukconstitutionallaw.org/2011/05/18/jeff-king-should-prisoners-have-the-right-to-vote/ http://ukconstitutionallaw.org/2012/06/03/colm-ocinneide-prisoners-votes-again-and-the-constitutional-illegitimacy-of-the-echr/ http://ukconstitutionallaw.org/2013/03/13/paul-reid-independence-the-referendum-the-franchise-and-prisoners-stormy-waters-ahead/

2. One of the reasons that the application in X v United Kingdom was deemed inadmissible was that the referendum on the EEC was deemed to be of a ‘purely consultative character’. Will the independence referendum be seen to be purely consultative and if not could that lead to a different reading of A3P1? I would suggest that in light of Bader v Austria there would not be a different reading of A3P1, but the position is perhaps open to question.

\(^5\) Bader v Austria (1996) 22 EHRR CD213, see No. 7096/75, Dec. 3.10.75, D.R. 3 p.165.


\(^7\) In this case the Court also referred to a number of other cases in which the same limitation applied.
3. It might be argued that the law has moved on and the European Court is becoming more protective of the right to vote; could this lead to a more ‘purposive’ interpretation of A3P1 which might catch referendums within its remit? (This argument was advanced by Paul Reid, Advocate in a blog of 12 March, citing the recent case of Scoppala 2013⁸ http://ukconstitutionallaw.org/2013/03/13/paul-reid-independence-the-referendum-the-franchise-and-prisoners-stormy-waters-ahead/).

4. It has been argued that it is logically incongruous that the ECHR guarantees to prisoners a right to vote in parliamentary elections but not on such an important issue as independent statehood, and on this basis that a court might read such a right into A3P1. (See for example http://ukhumanrightsblog.com/2013/03/12/no-prisoner-votes-in-scottish-independence-referendum-andrew-tickell/ See also http://ukconstitutionallaw.org/2013/03/13/paul-reid-independence-the-referendum-the-franchise-and-prisoners-stormy-waters-ahead/)

5. The European Union Charter of Fundamental Rights Articles 39 and 40 provide for the right of every citizen to vote respectively in elections to the European Parliament and in municipal elections. In other words, this too does not seem to cover referendums. However, if we also take into account the International Covenant on Civil and Political Rights to which the United Kingdom is a party, Article 25 provides a broader right: ‘To take part in the conduct of public affairs’. The Human Rights Committee which interprets the Covenant has interpreted this to include the right to vote in referendums: ‘Citizens also participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referendum’ (General Comment 25, para 6); and any restrictions on this right should be ‘objective and reasonable’ (General Comment 25, para 4).⁹ The Scottish Parliament is not bound to act compatibly with this Covenant but its terms could be considered by a court in interpreting A3P1 of the ECHR.

Conclusion
Challenges could be brought either by way of a SA section 33 reference by a law officer or post-enactment by way of a judicial review application. I am not persuaded that either challenge would be successful but the caveats I mention should be considered.

18 March 2013

⁸ Scoppola v Italy (2013) 56 EHRR 19.

⁹ General Comment No. 25: The right to participate in public affairs, voting rights and the right of equal access to public service (Art. 25):12/07/1996. CCPR/C/21/Rev.1/Add.7, General Comment No. 25. (General Comments).
Appendix

Franchise Bill Explanatory Notes
Offenders in prison etc. not to be entitled to vote
9. 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 the Bill 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.

Franchise Bill Policy Memorandum
13. Convicted prisoners detained in a penal institution will not be eligible to vote in the 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. While the franchise at the referendum is a matter for the Scottish Parliament to determine, the franchise at elections in Scotland (as throughout the UK) is a matter for the UK Parliament. The UK Government announced in November 2012 that it would ask a committee of parliamentarians to consider a range of options set out by the Government in response to successive rulings by the European Court of Human Rights that the UK's current blanket ban on prisoners voting in elections to state legislatures breaches the European Convention on Human Rights. The committee will report later in 2013. The ECHR ruling (and human rights case law) does not relate to referendums, and convicted prisoners will not be able to vote in the referendum irrespective of whether UK electoral law is amended to extend the vote to prisoners for parliamentary elections before the referendum in 2014.

40. The Scottish Government is satisfied that the provisions of the Bill are compatible with the European Convention on Human Rights (ECHR). The publicly available register of local government electors is used, in line with election law and subject to the necessary safeguards to prevent impersonation and ensure a fair referendum. The Bill also applies existing criminal offences for the purposes of the RYV, where necessary, none of which are incompatible with Convention rights.

41. The Bill prohibits convicted prisoners who are detained in pursuance of their sentence from voting in the referendum. As discussed in paragraph 13, the Scottish Government is satisfied that this approach is compatible with the ECHR. Article 3 of Protocol 1 to that Convention, the right to free elections, does not create rights that would apply to an independence referendum.’
Thank you for your letter of 21 March 2013 seeking the Scottish Government's views on Professor Tierney's paper on prisoners' voting rights for the referendum.

The franchise at the referendum is for the Scottish Parliament to determine. As you know, under section 3 of the Scottish Independence Referendum (Franchise) Bill, convicted prisoners detained in pursuance of their sentence would not be able to vote in the referendum. This is identical to the provision made by section 3 of the Representation of the People 1983 Act in relation to parliamentary and local government elections. It has been included in the Franchise Bill in the interests of certainty at the referendum, given that the UK Parliament is currently considering proposals to alter section 3 of the 1983 Act.

As Professor Tierney notes, Article 3 of Protocol 1 (A3 P1) to the European Convention on Human Rights provides that:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

The European Court of Human Rights has, as Professor Tierney identifies, ruled on several occasions that referendums are not within the scope of this right. It is clear that the referendum on Scottish independence does not determine "the choice of legislature". The wording "at reasonable intervals" further underlines that the right relates to elections, not referendums.

The Scottish Government is satisfied that the Bill's approach to prisoner voting is compatible with the ECHR, and agrees with Professor Tierney's conclusion that any challenge would be unlikely to be successful. I would be happy to discuss this further with the Committee on 28 March.

26 March 2013
Scottish Independence Referendum (Franchise) Bill: The Deputy First Minister (Government strategy and the Constitution) and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon) moved S4M-06545—That the Parliament agrees to the general principles of the Scottish Independence Referendum (Franchise) Bill.

After debate, the motion was agreed to ((DT) by division: For 97, Against 12, Abstentions 0).
Scottish Independence Referendum (Franchise) Bill: Stage 1

The Deputy Presiding Officer (John Scott): The next item of business is a debate on motion S4M-06545, in the name of Nicola Sturgeon, on the Scottish Independence Referendum (Franchise) Bill.

14:23

The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon): I am pleased to open the debate on the general principles of the Scottish Independence Referendum (Franchise) Bill, which represents the first important legislative step towards the referendum. I take the opportunity to thank all who have contributed to the bill’s development. In particular, I thank the Referendum (Scotland) Bill Committee for its detailed scrutiny of the bill and its comprehensive stage 1 report, which I have no doubt will be dealt with in depth during the debate. I welcome the support that the committee has expressed for the bill’s general principles.

I will provide some context and say a word about consultation. Everyone in the chamber knows that the Government was elected in 2011 with a mandate to hold a referendum on our constitutional future, the date for which has been confirmed as 18 September 2014. The proposals that we are debating are the result of extensive consultation with the Scottish people—about which I will say more later—followed by negotiations between the Scottish Government and the United Kingdom Government.

As members are aware, those discussions culminated in the Edinburgh agreement, which paved the way for the referendum on Scottish independence. The Edinburgh agreement puts it beyond any doubt that the Scottish Parliament should legislate for the referendum, and it specifies that the legislation should set out the details of the referendum, which include the arrangements for the franchise.

The bill provides for a franchise that is based on the existing franchise for the Scottish Parliament and local government elections, with one change: the extension of the franchise to 16 and 17-year-olds, which I remind the Parliament that the Scottish National Party supports for all elections. We are pleased to have the opportunity to make that extension for the referendum. We have long believed that the voting age should be lowered.

Alison McInnes (North East Scotland) (LD): In a discussion about the very foundations of our
country, it seems reasonable to take a measured and mature look at exactly who should be allowed to participate. Is the cabinet secretary open to exploring the possibility of some prisoners participating? If not, will she explain how she thinks that excluding people from the most high-profile and significant choice that any of us is likely to make will help with the reintegration of prisoners and civic responsibility?

Nicola Sturgeon: I appreciate that that is an important issue for the member and I suspect that it will be one of the issues that dominate the debate. I will come on to it later in my speech so, if the member does not mind, I will not go into it in detail at the moment, except to say that the legislative process for this bill—or any bill—is exactly the place to have a mature, detailed and considered look at any such proposal.

As I said, we have long believed that the voting age should be lowered to 16. As everybody is aware, young people take on a number of important rights and responsibilities at 16. It is only right that they be fully engaged in the democratic process. The proposals in the bill, which we will debate in more detail this afternoon, present a practical and workable solution to ensure that not just some but all eligible 16 and 17-year-olds will be able to cast their vote along with the rest of the electorate next September.

The arrangements for registering young voters will closely mirror the existing household canvass. We have designed a young voter registration form, which will be sent out to every household alongside the canvass in autumn this year. The form has been independently tested and I am pleased to say that the results show that it works well and is clear and intelligible. We are obviously committed to ensuring that no barriers exist to prevent eligible voters from participating in the referendum, so the design and workability of the form are important.

We have worked closely with electoral registration officers in developing the bill, and their advice made it clear to us that the provisions for registering young voters had to be in place well in advance of the 2013 canvass. That is the reason for the bill’s expedited timetable and the reason why the franchise is being dealt with separately from the main Scottish Independence Referendum Bill, which we will have the opportunity to debate in due course.

We have consulted extensively on the issues that the Scottish Independence Referendum (Franchise) Bill concerns. The consultation document “Your Scotland, Your Referendum” was published in January last year and specifically sought views on extending the franchise to 16 and 17-year-olds. More than half the people who responded to the question supported the extension of the franchise. Organisations such as the National Union of Students Scotland, the Scottish Youth Parliament and Young Scot have been vocal in their support for extending the franchise and we have had the opportunity to hear from those groups during the consultation and during the Referendum (Scotland) Bill Committee’s evidence sessions.

In addition to the public channels of consultation, we have had focused and constructive discussions with electoral registration officers, the Electoral Commission and other electoral professionals. I put on record my thanks to them, because their advice has proved invaluable in the bill’s development, and we will continue to work closely with them to ensure the successful implementation of the bill’s provisions.

Another point that I want to make in relation to 16 and 17-year-olds in this contextual part of my speech is that it is essential to treat sensitively the information that will be collected to allow them to vote. We have been acutely aware of the need to recognise and address any child protection issues during the bill’s development and we have been helped hugely in that by the comments of experts. I am confident that the bill takes full account of those issues, although I will be interested to hear members’ views on that point as we go through the bill process.

I turn to the bill’s provisions in more detail. As I have said, the bill sets out who is eligible to vote in the referendum and provides the detailed arrangements for the registration of young people. The bill provides that eligibility to vote will be based on the franchise for the Scottish Parliament and local government elections; gives electoral registration officers a duty to collect the information necessary to register eligible young voters who will be 16 by the date of the referendum; provides for that information to be collated into a register of young voters; gives EROs a duty to maintain the register of young voters by rolling registration, which is similar to the provisions for the main register; prohibits the register of young voters from being published; and sets strict controls on accessing the information that that register contains. The general approach that we have taken to the bill is to replicate, as far as possible, existing electoral practice, while recognising the need to treat data on young people responsibly and appropriately.

As I said at the outset, I welcome the committee’s full and comprehensive stage 1 report, which all members will have had the chance to consider. The committee considered evidence from a wide range of sources—from child protection experts to youth organisations and electoral registration professionals—and I am
grateful for its thorough examination of the bill and, of course, its support for the general principles.

I will comment on one or two of the issues that the committee's report raised. As I said in response to Alison McInnes's intervention, I am sure that we will go into the issues in depth this afternoon.

On prisoner voting, the Scottish Government's position—I note that this position is supported by a majority of the committee—is that convicted prisoners should not be entitled to vote in the referendum. As was discussed during the committee's consideration, the referendum franchise is based on the franchise for local government and Scottish Parliament elections, which does not extend to convicted prisoners. In my view, that is because, if somebody commits a crime that lands them in prison, they break their contract with society and therefore lose some of the rights that the rest of us take for granted. As the law stands, that includes the right to vote in elections.

I appreciate that there will be people in the chamber today and as the bill progresses who want to make a different case, and the Government will certainly listen carefully to the points that are made. The onus is on those who argue for a change to the status quo to make that case, and I look forward to the debate that will follow.

Margo MacDonald (Lothian) (Ind): I say with all due respect that the minister has set out an absolutist, fundamentalist position. I cannot see how the Government can move from it, so I wonder why we are bothering to debate it.

Nicola Sturgeon: I am laughing to myself about having a fundamentalist discussion with Margo MacDonald.

Margo MacDonald: It takes one to know one.

Nicola Sturgeon: This is in a slightly different context, perhaps, from previous discussions.

I am being frank and honest about the Government's position. We are not persuaded of the arguments to change the status quo, but I hope that I have demonstrated in relation to bills that I have previously been in charge of and in discussions in the chamber that we listen carefully to the arguments that are made.

Patrick Harvie (Glasgow) (Green): I am glad that the cabinet secretary is willing to listen to the debate. At a purely practical level, even if the Government is right that a successful legal challenge to the relevant provision is unlikely, it seems likely that there will be a legal challenge. What assessment has the Government made of the impact that time spent in court fighting that legal challenge would have on the bill's implementation or the timetable for the referendum?

Nicola Sturgeon: We take account of various things when we assess the timescale. I am confident that the bill as it stands is capable of seeing off any legal challenge, particularly on the issue that we are discussing. The European convention on human rights creates rights in relation to elections for state legislatures, not referendums—evidence to the committee backed up that position.

Notwithstanding the point that Patrick Harvie made, I am confident that the bill can proceed on the timescale that is needed to ensure that all the arrangements for the referendum are in place. However, as I said, we will continue to listen to the arguments that are made. I am sure that we will come back to that issue in the debate, so I want to make some progress.

Another issue that the committee raised concerns service voters. In my evidence to the committee I made it clear that no special arrangements are necessary to allow service personnel to vote in the referendum. The arrangements that allow service personnel to vote in elections to this Parliament will be in place for the referendum. The committee acknowledged that point and I fully agree that effective joint working between the Electoral Commission, EROs and the Ministry of Defence will be important to ensure that the practical arrangements are in place.

On the committee's comments about the position of the children of service personnel registered as service voters, the bill's proposals reflect the current arrangements for children of service voters. I note the committee's recommendation on the matter and reassure Parliament that the Government will investigate the possible options for allowing young people who live outside Scotland with a parent who is a service voter to register to vote in the referendum. We are talking about a small group of people, but we will nevertheless consider their position and report to the committee before stage 2.

I fully support the committee's conclusions on awareness raising. The key to success is a co-ordinated guidance-based approach that maintains political impartiality, and our proposals confer responsibility for public awareness on the Electoral Commission, which impartially fulfils such a role for other elections in Scotland.

The committee raised a valuable point on providing information for EROs, specifically about the format of applications under rolling registration. Government officials will meet EROs in the near future to develop guidance on that and other matters in the bill. We have so far worked closely
with EROs in developing the bill and we will continue to do so to ensure its effective implementation.

The bill is an essential part of the framework in which the referendum will be held and provides the mechanism by which all who are eligible will be able to cast their vote in the referendum on Scotland’s independence. I look forward to this afternoon’s debate and will listen carefully to all the points that are made.

In the meantime, I move,

That the Parliament agrees to the general principles of the Scottish Independence Referendum (Franchise) Bill.

14:36

Bruce Crawford (Stirling) (SNP): As convener of the Referendum (Scotland) Bill Committee, I am pleased to have the opportunity to contribute to the stage 1 debate on the Scottish Independence Referendum (Franchise) Bill. On behalf of committee members, I give my most sincere thanks to the clerking team, the staff from the Scottish Parliament information centre and our committee advisers for their helpful support and advice during our proceedings. We thank the cabinet secretary and her officials, who were very helpful in our deliberations, and I should also mention all the witnesses who provided us with oral and written evidence. Although they are too many to mention individually, I thank on the committee’s behalf everyone who gave up their time to provide evidence. Their input made our job much easier.

I thank in particular the members of the Scottish Youth Parliament Emily Shaw and Andrew Deans for their evidence. I say without hesitation that the committee was impressed with the considered, clear and concise way in which they put across their points. Those two young people are a credit to their families, their schools and the Scottish Youth Parliament.

I thank my committee colleagues for their constructive and diligent approach to the scrutiny of the bill. Like me, many of my colleagues have been aware from the outset of our particular responsibilities to scrutinise robustly and rigorously the Government’s legislation. I know that the committee is acutely aware that it is vital that the referendum legislation secures not only the confidence of the people of Scotland.

To turn to the committee’s report and the detail of the work that we undertook, I should say that we examined a significant range of issues. As it would be impossible to cover them all in the time available, I intend to cover the most significant aspects from my perspective as convener. In doing so, I will inevitably have to go over ground that the Deputy First Minister covered.

A variety of witnesses gave evidence on the bill’s policy intention to lower the voting age for the referendum to include 16 and 17-year-olds. Robin Parker of the National Union of Students Scotland said that his organisation had “for a long time supported the principle of votes at 16. It is extremely positive that the Scottish Government and the Westminster Government have agreed that we can extend the franchise for the referendum.”

Similarly, the Scottish Youth Parliament said that it had “campaigned for votes at 16 for more than a decade”, and Emily Shaw said that it was “fantastic to see the principle being taken forward in the bill” and that “Sixteen and 17-year-olds can be just as informed as over-18s are, and it is important that they have a voice”.

Andrew Deans commented that votes for 16-year-olds had received a high degree of support among youth organisations and young people, which included a consultation that received 40,000 responses. He said:

“We work with 16 and 17-year-olds all the time, and we see that they are very much ready to vote.”—[Official Report, Referendum (Scotland) Bill Committee, 14 March 2013, c 226, 228.]

Similarly, we heard from Tam Baillie, Scotland’s Commissioner for Children and Young People, and from Young Scot and the Electoral Reform Society, all of whom told the committee that they support the lowering of the voting age for the referendum. In fairness, we also received evidence from those who oppose the move—particularly Charles Clegg, a 17-year-old high school pupil who put across his views very clearly.

The Deputy First Minister explained the thinking behind the Government’s position when she said at the committee:

“Young people obviously take on a range of important rights and responsibilities at 16, and we believe that they should have the opportunity to have their say on the future of the country of which they are part.”

After taking on board all the evidence that it received, the committee decided to endorse—albeit by a majority decision, with all members apart from Annabel Goldie supporting endorsement—the extension of the franchise for the referendum to 16 and 17-year-olds.

Section 3 of the bill prohibits convicted prisoners who are being held in penal institutions at the time of the referendum from voting. As the Deputy First Minister said, that provision is identical to that which was made by section 3 of the Representation of the People Act 1983.
The committee considered the compatibility of section 3 of the bill with ECHR. The Deputy First Minister described the legal position as clear and said that the Scottish Government had “taken account of all the legal considerations and arguments in coming to the position in the bill.”

The committee noted the views of our committee adviser, Professor Stephen Tierney, and the Law Society of Scotland, and their conclusion that a challenge to section 3 on ECHR grounds would be unlikely to succeed.

The principle of preventing convicted prisoners from voting in the referendum was challenged in a number of written submissions and particularly in a joint submission from the Howard League for Penal Reform and others. Other written evidence, such as that from Quakers Scotland and the Church of Scotland’s church and society council, also opposed the ban on prisoners voting. However, the Deputy First Minister rejected those arguments. She recognised that the position might have to change for United Kingdom elections, but that is a matter for the UK Government. She said:

“Right now, convicted prisoners who are serving prison sentences do not get to vote, and I do not consider that there is a good argument for changing the position for the referendum.”—[Official Report, Referendum (Scotland) Bill Committee, 28 March 2013; c 303, 317, 313.]

Patrick Harvie: Bruce Crawford is right about the evidence on the legal question that suggested that a challenge is unlikely to be successful and that ECHR rules apply to elections but not referendums. Is it not also the case that we heard no clear argument about why, in principle, the franchise for referendums ought to differ from the franchise for elections and that the ECHR principle should be applied on a moral argument, not a legalistic one?

Bruce Crawford: It is clear that the majority of the committee supported the Scottish Government in saying that all convicted prisoners should be ineligible to vote in the referendum. The basic principle behind that is that someone forfeits the right to vote once they have been incarcerated in a penal institution as a result of committing a crime. That is a pretty simple principle to get hold of, and apart from Patrick Harvie and Tavish Scott, who dissented from that conclusion, the rest of the committee supported the Government’s position.

Margo MacDonald: Will the minister give way?

Bruce Crawford: I am no longer a minister; I am convener of the committee. I am happy to give way.

Margo MacDonald: I was being sooky, Presiding Officer.

Why was it felt that such a provision would be defeated in court?

Bruce Crawford: We leaned on evidence from the committee adviser, Professor Tierney, and from the Law Society of Scotland when we concluded that a challenge would be highly unlikely to be successful in any court action.

As the Deputy First Minister said, there is no need for special arrangements for service personnel. She explained in detail, as laid out at column 311 of the Official Report of the committee’s 28 March meeting, the options that are available to service personnel to register. On that basis, the committee was content with the proposed franchise as noted in the bill in respect of service personnel, but we went on to say that “What matters now is that there is effective joint working between the Electoral Commission, EROs and the Ministry of Defence in order to provide information to these personnel about the registration options available to them.”

The committee urged the Government, in discussion with the UK Government, to explore all possible options for enabling young people to vote if they are of voting age and are resident outside Scotland only because their family have moved to be with a parent who is serving in the armed forces, and to report back to the committee before stage 2 begins.

I will quickly refer to the recommendations on awareness raising in our report. We took a fair bit of evidence on that issue from a number of appropriate organisations, but in particular I thank the officials from the Isle of Man, Guernsey and Jersey who took the trouble to provide us with an overview of their experiences.

The committee agreed with the witnesses that the key point about awareness raising is the need for a co-ordinated approach—based on clear guidance—that maintains political impartiality. The committee also believed that the Electoral Commission has a central role to play in the process, working collaboratively with many other organisations.

The committee was not persuaded that bodies other than the Electoral Commission need a duty in law to encourage participation. However, we said that we would expect the commission to develop, in good time, a detailed delivery plan to promote effective joint working, to clarify what it expects from others and to ensure appropriate consistency across Scotland.

On raising awareness among young voters in schools, the committee said that it was confident that those involved at local level, including EROs and teachers, already understand what is required. We considered that they are experienced in engaging young people in issues of citizenship in an appropriate and non-partisan way that complements rather than competes with the rest of their education.
Following all the evidence that we received, I am pleased to say that the committee recommends to the Parliament that the general principles of the Scottish Independence Referendum (Franchise) Bill be agreed to. I like the sound of that and I hope that, at decision time, Parliament will agree with the committee to give 16 and 17-year-olds the right to vote to decide the constitutional future of their country.

14:47

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)**: In spite of the Referendum (Scotland) Bill Committee having had to work to quite a tight timescale for its consideration of this important bill, I believe that the committee has taken extensive evidence on the matters that are covered by the bill and has given serious consideration to the issues that were raised. Of course, that has been possible only because of the assiduous way in which the clerks and their colleagues from SPICe have gone about their work and because of the co-operation of witnesses and our advisers.

The purpose of the Referendum (Scotland) Bill Committee is to consider the Scottish Independence Referendum (Franchise) Bill—which is before us today—and the referendum bill itself, both of which were made possible by the section 30 order that was approved by Parliament on 5 December 2012.

As its title suggests, the Scottish Independence Referendum (Franchise) Bill mainly deals with the issue of who can and—just as important—who cannot vote in the referendum and how the decisions that are made in that regard can be implemented with a degree of certainty. In the case of the decision to give 16 and 17-year-olds the opportunity to vote in the referendum, there were also issues about how we treat data relating to young people to ensure that it is both securely held and sensitively used.

In summary, the franchise will be the same as that for local government and Scottish Parliament elections, with the addition of 16 and 17-year-olds. Scottish Labour agrees that 16 and 17-year-olds should have the vote and I was struck by the point that was made by Robin Parker of NUS Scotland, who said:

“Young people will have to deal with the consequences of the referendum, whichever way it goes, for the longest time,”

and therefore, Mr Parker suggested, young people

“have the biggest stake in the decision.”—[Official Report, Referendum (Scotland) Bill Committee, 14 March 2013; c 226.]

That point is well made.

Bruce Crawford, our convener, mentioned the evidence that was given by Andrew Deans and Emily Shaw—members of the Scottish Youth Parliament. It is fair to say that if anyone had any doubt about the wisdom of allowing 16 and 17-year-olds to vote, it was put to bed when we heard the mature and considered evidence that they gave.

The committee noted that the bill specifically prohibits convicted prisoners held in penal establishments at the time of the referendum from voting. Scottish Labour concurs with that position.

This Parliament is, of course, bound by the need to comply with the ECHR, but we were reassured by the advice from the committee adviser and from the Law Society of Scotland that the relevant provisions of the ECHR—those that deal with the issue of prisoner voting—refer to elections involving a choice of legislature and that previous cases reinforced the fact that referenda were not covered by that protocol.

**Patrick Harvie**: Can Patricia Ferguson advance a reason in principle not why the ECHR ruling on the right of prisoners to vote in elections is good or bad, but why a referendum ought to be held to a lower human rights standard than that which applies to elections?

**Patricia Ferguson**: Patrick Harvie makes a point that is worthy of further discussion, which I hope we will have in the context of how we deal with prisoners and what the role of sentencing is. However, I must say that I cannot agree with the amendment that I understand some members will lodge at a later stage, because I think that the threshold in that will probably be too high. If we are talking not about the kind of prisoner who has committed a low-level offence but about someone who has committed a fairly serious offence, I would object in principle to such prisoners having the vote in any situation.

**Alison McInnes**: Will the member take an intervention?

**Patricia Ferguson**: I am sorry; I cannot take any more interventions on that issue, as I want to move on.

For the avoidance of doubt, given that we know that those provisions are likely to be the subject of legal challenge, albeit that Professor Tierney indicated to us that he thought that the balance of probability lay with any such appeal being unsuccessful, we believe that we should be able to see the legal advice that the Scottish Government has taken on the issue. We hope that the Deputy First Minister will make that advice available to Parliament as soon as possible.

In that context, it is important to note that remand prisoners and some civil prisoners,
together with people who have been imprisoned for fine defaulting, will retain the right to vote. Like the committee, we seek the Scottish Government’s assurance that those categories of people will have every opportunity to exercise an informed choice in the referendum.

Whether service personnel will be able to vote in the referendum is an important issue that has been the subject of some media speculation. I note that service personnel will have the same opportunity to vote in the referendum as they have in other elections. They will be able to vote either as an ordinary voter, if they are able to register at an address in Scotland, or as a service voter or as an overseas voter. In evidence, the Electoral Commission pointed out that that range of options “is not available to all service personnel all of the time.” — [Official Report, Referendum (Scotland) Bill Committee, 21 March 2013; c 277.]

As service personnel’s ability to register depends on their particular circumstances, electoral returning officers will need to make a determination based on the information with which they are provided. We note that the Electoral Commission is co-operating with the MOD to provide information about registration for service personnel, so I hope that it will be possible to ensure the widest possible franchise among service personnel.

Ken Macdonald, of the Information Commissioner’s Office, drew attention to a small but important group of people who are likely to be disenfranchised—that is, the children of service personnel. The Government argues that the situation in the referendum will be no different from what happens in other elections, but, arguably, it is a direct consequence of the fact that the bill will extend the franchise to young people aged 16 and 17 who, because of their age, could reasonably be expected to still be living with their service personnel parents. I accept that the numbers involved are likely to be relatively small, but I most earnestly hope that the Scottish Government will work with the UK Government to find a solution to the problem. I welcome the cabinet secretary’s comments on that today, but it is important that, if we say that all 16 and 17-year-olds will have the vote, we mean that all 16 and 17-year-olds will have the vote.

We now know that the UK Government has indicated that it will postpone moves towards individual voter registration in Scotland until after the referendum. That is welcome, but we hope that wide variations in the start date for the annual canvass can also be avoided. Returning officers should be able to begin their canvass as soon as possible after 1 October to allow as much time as possible for registration.

The policy memorandum for the franchise bill anticipates that registration will mirror the existing processes rather than introduce a new procedure. For that reason, the bill aims to ensure that young people will register through an extra form that will be provided to households alongside the usual return form that we are familiar with. I note that there is also provision for rolling registration up until 11 days before the referendum.

In evidence to the committee, Andrew Deans, one of the MSYPs to whom I referred earlier, was anxious that parents might not understand that they can add their teenage children to the list and suggested that there should be more emphasis on the rolling register. Another important point that the MSYPs made about the registration form was that it would be better to indicate who is eligible to vote by reference to actual dates rather than to the qualifying age. That is a valid point, so I hope that the cabinet secretary will give it serious consideration.

As I mentioned, the committee was rightly concerned about ensuring that the data that is collected on young people is handled and managed sensitively. I was pleased that the witnesses who commented on that felt that the bill had benefited greatly from suggestions that were made during the consultation process, and that, in its current format, it will protect young people in a robust way, with access to the register of young voters being strictly limited. That is a crucial point, as teenagers as young as 14 might be included in the register. The measures in the bill in that regard are welcome and will protect and safeguard data appropriately.

Regardless of where members stand on the issue of separation, we can all agree that it will be important that people are aware of the ways in which they can register and vote in the referendum. The committee noted that there is a crossover between the franchise bill and the Scottish Independence Referendum Bill in that regard, and we noted a number of issues in relation to awareness raising that we will want to consider further during our scrutiny of that bill.

Like the committee, Scottish Labour believes that it is vital that all those who are eligible to vote understand how to go about registering and that they should be able to access impartial and accurate advice. That will be particularly important as we try to encourage as many young voters as possible to participate.

Dennis Robertson (Aberdeenshire West) (SNP): Will the member take an intervention on that point?

Patricia Ferguson: I am in my last minute, Mr Robertson—sorry about that.
The committee was right to conclude, in paragraph 136 of its report, that awareness raising needs to be co-ordinated, clear and impartial. The committee took very seriously the evidence that was presented by the National Deaf Children’s Society that it is vital to ensure that those who face barriers in their everyday lives can be informed participants. Scottish Labour hopes that information will be available in a variety of languages and formats.

Another issue on which the cabinet secretary could usefully provide clarification relates to the delegated powers that the bill bestows on ministers in section 11. Those powers are wide ranging, given that they include the power to modify any enactment, including the bill itself. Although the provisions of the bill are narrow, that is an unusual power for Government to seek, so I would be grateful if the cabinet secretary could comment further on the possible uses of the power when she closes the debate.

In summary, we seek assurances from the cabinet secretary on the legal advice that she has received in connection with prisoner voting and that the Scottish Government will take seriously the matter of having wording on the registration form that makes it clear which young people can vote. We hope that the Scottish Government will work with the UK Government to ensure that the children of service personnel are on the list.

Scottish Labour will support the general principles of the bill at stage 1.

14:58

Annabel Goldie (West Scotland) (Con): The referendum next year will be the most important decision that Scotland has taken in 300 years. I am glad that the Westminster and Scottish Governments were able to agree that there should be a referendum with one question before the end of next year, because the issue must be resolved.

It is of course important to confirm the franchise arrangements for the referendum. As I understand it, such franchise directions would normally be contained in the bill constituting the referendum, as was the case with the alternative vote referendum last year. However, the SNP’s desire to extend the franchise to 16 and 17-year-olds, with the additional administrative requirements to compile a new electoral roll to deal with that, as well as the timescale involved, meant that a separate paving bill was necessary.

I serve on the committee that scrutinised the bill. I, too, pay tribute to the clerks, SPICe and the committee advisers, Iain Grant and Professor Stephen Tierney, all of whose input I found supportive and helpful. I thank our convener, Bruce Crawford, for his fairness and inclusiveness and his exemplary patience during the more testing moments of the scrutiny process. I am satisfied that the scrutiny process has been thorough and that the stage 1 report is a fair reflection of the committee’s deliberations.

I turn to more specific aspects of the bill. Section 3 prohibits convicted prisoners who are held in a penal institution from voting. I agree with the Scottish Government’s view on that issue and, given the recent rulings by the European Court of Human Rights, which question such a blanket prohibition, it was correct to deal with the matter in the bill. However, I also agree with the principle underpinning prohibition. In my opinion, convicted prisoners serving custodial sentences have, by committing the crimes, sacrificed their entitlement to vote. The best way to preserve that entitlement is to stay out of prison.

Alison McInnes: Annabel Goldie might be interested to know that, in 2011-12, 40 per cent of those who were sentenced for severe assault or attempted murder were dealt with in the community and, therefore, never lost their vote. Does she agree that, therefore, a blanket ban on prisoner voting is not a coherent position?

Annabel Goldie: The distinction is the custodial element. I have made clear my view. If someone has sacrificed their right to be at liberty in society, other consequences follow and, to me, one of those is loss of franchise. I recognise that Alison McInnes may disagree with that assessment, but that is the view that I hold.

Margo MacDonald: Will Annabel Goldie give way?

Annabel Goldie: I would rather make progress, if Ms MacDonald will excuse me.

Interestingly, as some members have said, Professor Stephen Tierney and the Law Society of Scotland both raised the issue of possible legal challenge by a disenfranchised prisoner. Professor Tierney considered referenda to be exempt from the relevant provisions of the ECHR but did not dismiss the possibility of a challenge, although he considered such a challenge unlikely to be successful. The Law Society took a similar view.

To be fair, the committee examined the Deputy First Minister closely on that point but she was clear about the legal advice that the Scottish Government had received. In everything, there is a risk of legal challenge and I am satisfied on the basis of the evidence and opinions submitted to the committee that the prospect of a successful challenge is minimal.

The main thrust of the bill is, of course, to extend the franchise to 16 and 17-year-olds. The previous limited application of that extension to pilot health board elections provided no useful
basis for discussion other than recognising abysmal turnout levels. Therefore, my party is not supportive of the principle of using the referendum as an experiment for extending votes to 16 and 17-year-olds.

That is not to say that we do not consider that there is a debate to be had. There is and it would be welcome, but my party feels that the step in the bill is precipitate and premature. We would have welcomed broader discussion and consultation involving the Electoral Commission. For that reason, my dissent to the proposal was noted in the committee report and my party will vote against the bill at decision time.

Margo MacDonald: Will Annabel Goldie give way?

Annabel Goldie: I need to make progress. I have enough to get through. I apologise to Ms MacDonald.

On a purely personal note, people may think that the views that I hold now are disquieting, but they should have seen my views at the age of 16. They were scary. Experience of life—not least the workplace—was to temper them.

Although I disagree with the extension of franchise, the committee’s examination of the process was useful. Two important elements emerged. First, the introduction of individual voter registration by Westminster is welcome but the timing of that legislation could have placed an impossible administrative burden on electoral officers preparing for the referendum. Therefore, I was relieved to learn of the reassurance that the Cabinet Office at Westminster had given the Deputy First Minister that individual voter registration would not start until after the referendum. I look forward to confirmation from the Scottish Government that the necessary Westminster statutory instrument has been enacted to ensure that that is the case.

Secondly, understandable interest was expressed in ensuring that young people voting for the first time in the referendum should have access to information. I agree with that, but the distinction between the provision of information and propaganda is a fine one. It is right that the Scottish Government has no control over local authorities in that respect, but there is a huge obligation on local authorities to strike a proper balance in the reasonable provision of information to young people to increase awareness, stopping short of anything that reeks of a coercive attempt to influence. It is equally important that young persons preparing for exams must not be diverted from essential study.

The delegated powers in section 11 of the bill are wide—wider than might normally be expected. They are subject to affirmative procedure, but I hope that such breadth and scope of delegated powers in legislation in the Scottish Parliament will be the exception not the rule.

The Deputy Presiding Officer (Elaine Smith): We turn to the open debate. Speeches should be of six minutes. We are quite tight for time. I ask members who wish to speak in the debate to ensure that their request-to-speak buttons are pressed. That is particularly important after members have taken interventions. You must repress your button.

15:04

Annabelle Ewing (Mid Scotland and Fife) (SNP): As a member of the Referendum (Scotland) Bill Committee, I am pleased to have been called to speak in this stage 1 debate on the Scottish Independence Referendum (Franchise) Bill. I, too, thank all those who gave evidence, SPICe and our committee advisers, and I thank the clerks for their efficient handling thus far of the franchise bill.

As we have heard this afternoon, the franchise bill makes provision for the franchise that is to be applicable for the independence referendum to be held on 18 September 2014. Broadly speaking, the franchise will be the same as that for the 1997 devolution referendum—that is, it will be based on the local government register in Scotland. The approach of both the 1997 devolution referendum and the upcoming 2014 independence referendum reflects what is widely regarded as best international practice on referenda, whereby residency is considered to be the most appropriate criterion for setting the right to vote. It is interesting to note that the committee unanimously agreed with that approach. In that regard, I refer the Parliament to paragraph 29 of the committee’s report.

The committee’s deliberations on the franchise bill were broadly of a consensual nature, which is a credit to all members of the committee, but particularly to those who represent the unionist parties, who, it is probably fair to say, did not have the holding of an independence referendum as an overriding objective in the first place.

As far as the franchise is concerned, there is one key difference from the approach that was taken in the 1997 referendum, and that concerns the extension of the vote to 16 and 17-year-olds. I am delighted that some 120,000 of our citizens aged 16 and 17 will be able to register to vote in the independence referendum. I speak as a long-term supporter of a reduction in the voting age to 16. That has been a long-term objective of the Scottish National Party. Indeed, I recall that my mother, Winnie Ewing, in her maiden speech in the House of Commons following her sensational
victory in the Hamilton by-election in 1967, called for a reduction in the voting age from the then minimum age of 21 years to 18 years, with a marker being laid for future reductions.

John Mason (Glasgow Shettleston) (SNP): I very much agree with what the member says about 16 and 17-year-olds. However, I have been in some schools where young people have said that they do not have a lot of confidence that they understand all the issues. How would the member respond to such young people?

Annabelle Ewing: I believe that, as we progress further towards the referendum date of 18 September next year, young people will feel quite confident that they have the information that they need through a variety of means. In committee, I suggested that we could have an indy app, which went down quite well with the young witnesses there. There will be many means—

Neil Findlay (Lothian) (Lab): Will the member take an intervention?

Annabelle Ewing: I am afraid that I would like to make a wee bit of progress. I have just taken an intervention.

There will be many means by which information will be made available.

The evidence that the committee received was very much in favour of lowering the voting age, with supportive statements being received from NUS Scotland, representatives of the Scottish Youth Parliament, Young Scot, Scotland’s Commissioner for Children and Young People, Children in Scotland and the Electoral Reform Society. For the sake of completeness, I note that the evidence that we received on the lowering of the voting age was not unanimously in favour, as one individual made a submission against the proposition. As far as committee members are concerned, there was agreement except—as we have heard this afternoon—from the Conservative Party.

On the issue of lowering the voting age in general, again, the Scottish National Party is in favour of that for all forms of election. It is not clear from what Annabel Goldie said today what the Conservative Party position is, and it is certainly not clear what the Labour position is. Labour members talk about being in support, but they also talk about simply actively looking at the matter in terms of their 2015 Westminster manifesto. Perhaps they will clarify their position this afternoon. What is clear is that a yes vote in 2014 will secure for this Parliament powers over the voting age for all elections that are held in Scotland, and that is how it should be.

In the time that I have remaining, I will touch on another key aspect of the franchise, and that is the issue of service personnel. Again, the approach to be adopted in the independence referendum is the same as that which was adopted in the 1997 devolution referendum. The right of service personnel to vote follows the arrangements that are already in place.

I quote the Advocate General for Scotland, Lord Wallace of Tankerness, who said during the section 30 order debate in the House of Lords:

“Members of the Armed Forces will be able to vote in the referendum if they are on the register in Scotland either as a result of an address in Scotland or a qualifying address showing a connection to Scotland, such as service accommodation in Scotland; an address in Scotland where they would be living if they were not in the services; or an address in Scotland where they have lived in the past. The same rules apply to spouses and civil partners of members of the Armed Forces.”—[Official Report, House of Lords, 16 January 2013; Vol 742, c 754.]

That is very welcome, and it is as it should be. The committee was happy to endorse that position. One issue that has arisen concerns the position of 16 and 17-year-old children who are still living with service personnel who are resident furth of Scotland. On the basis that the current system is a Westminster system, which is based on the service personnel themselves and their spouses or partners, and that it does not even cover 18-year-olds who are still living with those personnel, it is welcome to hear that the Scottish Government will do everything that it can to persuade the Westminster Government to do the necessary to allow the 16 and 17-year-old children of such service personnel to vote in the independence referendum.

15:11

Helen Eadie (Cowdenbeath) (Lab): I am pleased to thank the convener and all those who are connected with the work of the Referendum (Scotland) Bill Committee for the very detailed response that they have given the Parliament in their report.

This stage 1 debate on a referendum bill is an opportunity to move the debate beyond the technical issues of the franchise to a wider discussion of how we can encourage people to get involved in the debate, how we can ensure that they are registered and how we can ensure that the widest cross-section of Scottish society turns out to vote.

I welcome the extension of the franchise to 16 and 17-year-olds. I believe, however, that that should apply to all elections, not just to the referendum. The Labour Party believes that special consideration should be given to the protection of the personal data of that age group, and we welcome the safeguards in the bill.
It is worthy of note that, when the Health and Sport Committee debated the bill that introduced direct elections for health boards and helped to promote the resulting Health Boards (Membership and Elections) (Scotland) Act 2009, the franchise was extended to 16 and 17-year-olds. This is therefore not a first for the Parliament—we have been here before.

I am pleased that the Government is considering how the franchise may be extended so that 16 and 17-year-olds who are based abroad because their parents are posted abroad with the UK’s armed forces can vote in the referendum. If the Government were to agree to amendments along those lines, that would be very welcome. That is just an example of the detailed work that the Referendum (Scotland) Bill Committee has been able to expose for us.

It is important that the referendum result is certain and is accepted internationally, so that Scotland can move forward—hopefully, from my perspective, as part of the UK—with the independence question settled. With that in mind, although we understand that Scottish people living in the rest of the UK and abroad might feel that they should be able to vote in the referendum, we do not intend to challenge the Scottish Government’s approach to expats, and we accept that expats may not vote in the referendum unless they are ordinarily able to vote in Scottish parliamentary elections.

Margo MacDonald: When Gordon Brown introduced his ideas for the referendum at yesterday’s press conference, he said that Scots in Scotland should feel as responsible for the wellbeing of people south of the border as they do for people here. Should that not extend to the franchise? Should expats not have a say? I wondered about that when Helen Eadie said that they should have no franchise.

Helen Eadie: The point is that, if people are able to vote in a parliamentary election here, that is a sufficient criterion. That is what the committee report says, and that is the Government’s position, I believe. I entirely support that position. That is a separate issue from the wider moral aspects to which Margo MacDonald refers.

I turn to my thoughts about prisoners. I read with interest the email that we received from the Scottish Human Rights Commission. As the party that brought the European convention on human rights into UK law, we take very seriously the issue and the Scottish Parliament’s commitment to complying with the ECHR in all the legislation that it passes, I call upon the Scottish Government to inform us what legal advice it has had on the issue and to publish that advice. That is important. We need to probe the issue—it needs to be part of the movement from stage 1 to stage 2.

Annabelle Ewing: Will the member take an intervention on that point?

Helen Eadie: No; not at the moment.

This is an opportunity to develop a distinctive alternative to the existing UK blanket ban on convicted prisoners voting in elections. That course could bring us closer to the practice in other European democracies such as Denmark, Finland, Ireland, France, Germany, Sweden and Switzerland. The commission recommended that the Scottish Parliament should have a debate on whether all prisoners should be banned from voting in the referendum, as expressed in the bill.

The commission proposed that that section of the bill be revised adequately to reflect the values that are placed in Scotland on human rights, social justice and the effective rehabilitation of offenders. The countries in which all convicted prisoners serving prison sentences are disenfranchised are the UK, Armenia, Bulgaria—much as I love Bulgaria, it is wrong in that regard—Estonia, Georgia, Hungary and Russia.

The commission’s key point is based on reasonable and objective justifications, such as the type of crime that was committed or the length of the sentence. It does not propose that every prisoner be given the right to vote. We know that there are many women in Cornton Vale and other prisons who are there for not paying bills. Is it reasonable to disenfranchise a woman who is in prison for not having paid her TV licence or parking fines? I do not think so. However, I would ban serious, violent criminals from having the right to vote. We must distinguish what we are talking about here, and the matter is worthy of a lengthier debate.

15:17

Rob Gibson (Caithness, Sutherland and Ross) (SNP): As a member of the Referendum (Scotland) Bill Committee, I am delighted to speak in support of the bill. The franchise for the referendum should be more or less the same as for the Scottish Parliament and local elections. The extension of the franchise to 16 and 17-year-olds is most welcome, but there should be no extension of the franchise to convicted prisoners who are being held in penal institutions. Services personnel have the right to vote in Scottish Parliament elections and local elections; that should continue.
I am pleased that the committee looked in great detail at how 16 and 17-year-olds would be involved. At paragraph 108 in our report, we say:

“As part of its wider scrutiny of the issues raised by the Bill, the Committee has taken considerable evidence on how voters, particularly young voters enfranchised for the first time, can be given the information they need about registering for and voting in the referendum.”

**Neil Findlay:** I was recently part of a delegation to observe elections in Venezuela. The people over there asked me a very basic question, which I could not answer; I wonder whether the committee has considered it. How do we ensure that the person who turns up to vote, whether it is in a referendum or on polling day, is who they say they are?

**Rob Gibson:** The prospect that we will run the referendum on the same basis as UK and Scottish elections have been run over centuries suggests that when we have local polling places, many people are known to the officers in charge and that we will not have the situation that occurred in parts in Northern Ireland, where “Vote early, vote often” was tolerated far too frequently.

Rather than talk about impersonation, it would be far better to talk about awareness raising, which is a positive matter. As the committee’s convener said, members of the Scottish Youth Parliament asked key questions about the variability and quality of the materials that will be available for school pupils, because 16 and 17-year-olds will need to be assured that they are getting excellent information. The committee established, through its interrogations, that the Electoral Commission will have a major part to play in providing that information.

I want to talk about what witnesses said about the issue. Bruce Robertson, from the Association of Directors of Education in Scotland, said that information about the referendum would be provided at times when pupils are expected to focus on matters other than their qualifications, although there would be spin-offs into other areas. He described that as

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given that teachers must follow the curriculum. He also pointed out that

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and went on to say:

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“That is where work in collaboration across the 32 education authorities and with School Leaders Scotland, which is the association of secondary headteachers, will enable people clearly to understand what is happening.”

**Graeme Pearson (South Scotland) (Lab):** Following the recent media coverage that exposed just how nasty, offensive and vitriolic elements of the debate on independence have become—especially online—I am pleased that today’s debate has reflected mutual respect and consideration and minimal conflict.

As many other members do, I favour the extension of the franchise to 16 and 17-year-olds, in all elections. I regret that the proposed extension will apply solely to the referendum and
that the registration process for under-18s has therefore been rushed. I hope that the concerns that members have expressed in that context will be properly addressed in the time that remains.

I harbour concerns that under-18s will not be in a position to vote in an informed manner. As part of my work in South Scotland, I often visit schools and speak with teachers. The general consensus among teachers, in particular among the teachers in modern studies departments—I am frightened to say this, given that there are so many modern studies teachers in the chamber—seems to be that many pupils are as yet not adequately informed or prepared for the responsibilities that come with voting.

Patricia Ferguson: I would be slightly worried were members to speak only about young people in schools, because not all young people are in education. Some are in apprenticeships and some are out in the world of work, and it is important that they, too, have access to good and impartial information.

Graeme Pearson: I am grateful to Patricia Ferguson for making that point. It saves me from making a similar one later on.

There is no doubt that there will be substantial pressure on young people to adhere to others’ views. One would hope that allowing those who are beyond 16 but under 18 to vote will allow them to play their part fully as we go towards the independence referendum.

The cabinet secretary indicated in her speech that she believes that she could survive a legal challenge relating to extending the franchise to people who are serving custodial sentences. I would have hoped and expected that she would want to do the right and just thing, and not solely what she can get away with in respect of the ECHR.

During my police service, I dealt with countless prisoners, who were in custody for a huge variety of crimes, and my experiences have led me to the view that those who are in prison should not be subjected to a blanket ban on participation in the electoral system. It was mentioned earlier that Scotland is part of a very small group of European countries—the group includes Armenia, Bulgaria, Estonia, Georgia, Hungary, Liechtenstein and Russia—that impose such restrictions. It seems strange to me that the line that we use to determine the franchise is a custodial sentence, no matter whether the person is spending weeks in prison for shoplifting or something similar, or a life sentence for murder.

I therefore believe that prisoners who are serving short sentences for less serious offences—we can debate and determine the exact nature and length of those sentences—should be allowed to participate in all elections in Scotland. I also believe that, once they are granted a vote, individual prisoners should be made responsible for registering to vote and for arranging for their vote to be submitted, and that it should not be left to the prison authorities to do that on their behalf.

My final point relates to my concerns about the Government’s position following the result of next year’s referendum. I hope and believe that the majority will vote against separation from the rest of the UK, but if Scotland votes to separate, although I will be extremely disappointed—I do not believe that that would be a positive step—I would accept the will of the Scottish people and endeavour to make Scotland the best place possible, whatever our relationship with the rest of the UK. I wonder whether SNP members and members of the Government will make the same pledge and state their intentions if Scotland were to vote to remain part of the United Kingdom. I find it particularly concerning that, in the past, some nationalist members have stated their desire to hold another referendum if the result of the first is not to their liking. It has been said:

“If we don’t get enough votes, then I believe we would go for another referendum, especially if it’s close. It would be unfair to the people of Scotland if it’s close to tell them that it’s finished.”

It is not Brigadoon that we are dealing with. There must come a point at which we recognise the consensus that is reached by the voters in Scotland and we accept their will. I hope that all members will offer assurances that they will accept the result of next year’s referendum and will subsequently prioritise the best interests of the people of Scotland.

15:29

Richard Lyle (Central Scotland) (SNP): I am pleased to take part in the debate.

Today is historic. For those who do not know, I joined the SNP when I was 16, in 1966. It is hard to imagine that that was nearly 47 years ago.

Margo MacDonald: I am older than him.

Richard Lyle: Yes, Margo MacDonald is older than me.

18 September 2014 is Scotland’s date with destiny. It is right and just that, in the 21st century, a country that is rich in natural resources, agriculture, history, tradition, passion and talent be governed by the people who live in that country. The solutions to the problems that affect the day-to-day lives of Scotland’s people are best decided by the people of Scotland. Scotland’s people are best placed to make decisions on welfare, defence and other reserved matters. Scotland has been successful with devolved powers: with
independence, there will be nothing that we cannot do.

It is also right that the bill will set in stone the ability of our young people to have a say in the referendum next year. Absolutely no one has a bigger say in the future of Scotland than its young people because, by their very nature, young people do not stay young for long. At 16, young people can marry, have children and pay taxes: they should be given the right to vote on the future of the country in which they live because, before we know it, our young people will be leading the country. They will be the new politicians devising policy and enshrining the values that we, in Scotland, hold most dear.

The argument for votes at 16 and 17 has been going on for a long time. Organisations that play significant roles in representation of young people, such as NUS Scotland and the Scottish Youth Parliament, have fought for many years for the right to vote at 16 and 17. I am proud that the Scottish Government has made that resounding commitment and fulfilled the long-term SNP policy of extending the franchise to 16 and 17-year-olds for the most important decision that this country will make. We are not Brigadoon, we are Scotland. I am confident that, when Scotland is an independent country, an SNP Government—or whatever Government governs this country with the powers of independence—will extend the franchise to 16 and 17-year-olds in every election and referendum.

With the right to vote also comes a responsibility on our Government to protect the young people who vote. That is why I am delighted to welcome the measures that the Scottish Government has taken to ensure that stringent protections are in place for our young voters.

We have a duty and a responsibility to ensure that both sides of the argument—the yes and no campaigns—express clearly their arguments, facts and plans for taking Scotland forward. I joined the SNP at 16, for independence for this country. I do not care whether it is a Labour Party governing it, a Tory party governing it or a Liberal party governing it, but I want an SNP Government governing it because I want an independent country—[Interuption.] I want a country that will look after its people, and which will not go backwards, as we are doing with the UK. We must have a greater emphasis on young people, particularly because for many young people the referendum will be their first chance to exercise their democratic right to vote. It is a decision for a generation.

The question in everyone’s mind right now will be, “What benefit will independence bring to me and my life?” That is a fair and balanced question. The answer is that, with independence, we can shape a nation that lives up to our ambitions of fairness and prosperity. What does that mean in reality? Among other Scottish priorities, I am sure that it means scrapping the bedroom tax. An SNP Government in an independent Scotland would scrap that unfair and unjust tax on the least well-off people in society—a commitment that our Deputy First Minister has made on several occasions.

In closing, I note that convicted prisoners who are detained in penal institutions will not be eligible to vote in the referendum, although prisoners who are on remand and have not been convicted will be able to vote. I totally agree with that proposal. As has already been said, if someone lives by the rules of society they are entitled to take full advantage of the right to vote in that society. Would anyone who believes otherwise—maybe they will say so later on—suggest that prisoners should decide their own sentences? I do not think so.

Patrick Harvie: Will the member take an intervention?

Richard Lyle: I am sorry, but I am just finishing.

On 18 September 2014, I, along with many others, will vote yes to a more equal, fairer and more successful Scotland. I look forward to independence, and I look forward to next year.

15:34

Linda Fabiani (East Kilbride) (SNP): It was interesting to hear what Richard Lyle said about prisoners. I have been wondering what the Lib Dem position is on the matter. The coalition Government at Westminster said recently that offenders who are sentenced to custodial sentences of less than four years would have the right to vote in UK Westminster parliamentary and European Parliament elections, unless the judge considered that to be inappropriate. It explicitly stated that the ability to vote in referendums was not included, so it is interesting that the Lib Dems in Scotland are trying to put the Government under pressure on the issue.

Patrick Harvie: It is not just the Lib Dems.

Linda Fabiani: It is also, of course, Patrick and Margo.

The Deputy Presiding Officer: Full names, please.

Linda Fabiani: What I would say about that is that Patrick Harvie and Margo MacDonald do not have representatives at Westminster in a Government that is taking a completely different position—their points are valid.

Patrick Harvie: Will the member take an intervention?
Linda Fabiani: No, thank you.

That is not the only issue on which the Lib Dems have—I think that they made up the term—flip-flopped. At a recent committee meeting, I was a wee bit concerned that the Lib Dems seemed to be pulling back from expressing confidence in the Electoral Commission. I put it on record that the leader of the Lib Dems in Scotland, Willie Rennie, backed the Electoral Commission, “whatever their advice”, and that Michael Moore, who is the Secretary of State for Scotland, is on record as saying that the commission is “a highly respected independent body which provides essential oversight and advice on the neutrality of the referendum process.”

Aside from that, I would like to talk about the extension of the franchise to 16 and 17-year-olds, which I hope we will endorse at decision time. As we have heard, it has for many years been SNP policy that the franchise be lowered to 16 for all elections, and I know that many other members are of that view.

The fact that there have been great campaigns on the issue outwith the Parliament, such as those of NUS Scotland—on behalf of which Robin Parker gave such fine evidence to the committee—and the Scottish Youth Parliament, should be recorded. Others have commended Emily Shaw and Andrew Deans, who gave us evidence. I would like to commend the Youth Parliament and all its members for its campaign, which was ably led by its chairperson in the East Kilbride zone, Grant Costello, who publicly espoused the case with such conviction and passion. It should be noted that the participation of young voters, which will be limited because of such issues. Discussion is on-going about dates of birth as opposed to age. At a point further down the line when they become voters—when they are 16 and not a child of 14 or 15, who warrants such protection—the registers would be merged.

I am content that all those who are experts in the field think that we have that right in the bill and that we can move forward in the knowledge that we are widening the franchise to allow 16 and 17-year-olds to vote. That is very important because—as we have heard from others—this is about the future of our nation. I hope that we move forward to independence. I also hope that in the independent nation of Scotland, 16 and 17-year-olds will be eligible to vote in all future elections.

Margo MacDonald: Given all the care that is being taken of that group of electors—that is what we have decided that they are—if they are equally able to take the sort of informed decision that we more adult electors will take, why should they be protected?

Linda Fabiani: Perhaps I did not make my point clear; it relates to the point of registration. For people to be able to vote at the age of 16, they must register at a younger age than that. For example, if we are talking about someone as young as 14 or 15, we would not want their details, including their address, to be obvious on the electoral register. That is the kind of thing that was taken on board. There will be a separate register of young voters, which will be limited because of such issues. Discussion is on-going about dates of birth as opposed to age. At a point further down the line when they become voters—when they are 16 and not a child of 14 or 15, who warrants such protection—the registers would be merged.

I am content that all those who are experts in the field think that we have that right in the bill and that we can move forward in the knowledge that we are widening the franchise to allow 16 and 17-year-olds to vote. That is very important because—as we have heard from others—this is about the future of our nation. I hope that we move forward to independence. I also hope that in the independent nation of Scotland, 16 and 17-year-olds will be eligible to vote in all future elections.

15:41

Tavish Scott (Shetland Islands) (LD): Some of what the former political editor of *The Herald* used to say to me came back to me as I watched the news last night. Bill Clark used to say when he phoned up, “Tavish, I’d like you to comment on the war of words between Labour and the SNP. Don’t worry, I’m not going to use it, because I won’t fit your comment in, but we should have a chat about it anyway.”

When I watched the news last night and saw Gordon Brown attacking the Tories in determining that the union was better for Scottish voters and in the next clip saw Nicola Sturgeon attacking Labour in pitching for the left-of-centre vote, I thought, “Gosh, no wonder the public are wearying of what is going on at the moment.” Nicola Sturgeon went for the left-of-centre vote yesterday, but today we understand that the SNP’s campaign has a pro-business, cut-corporation-tax, right-wing agenda. We heard Fergus Ewing talk about oil tax earlier on. So, the SNP is left wing on Monday and right wing on Tuesday. I say to Linda Fabiani that no party can shake a stick at the SNP when it comes to being all things to all people.
Here is the problem for the SNP: the voters are not stupid. Yes, the bill is about participation, but if we want to encourage interest and ensure that the voter takes the issue seriously, it does not help that the Government is a tax spender one day and a tax cutter the next.

I do care about the battle of ideas and vision but, to be frank, if I were to spend three weeks at home just now helping with the lambing I would miss nothing on independence. A vast percentage of the population of this country have made up their minds—and no wonder, given what has been going on. Instead of the reforms that Scotland needs, instead of testing the utterly debilitating orthodoxy of Scottish political thinking and instead of developing new solutions for old problems, this Parliament will shout at itself right through until September 2014. Because the Government of the day will use its majority to railroad through its position on every issue and every law, it seems that Parliament, in the eyes of an increasing majority of the population, is irrelevant.

Bob Doris: Will Tavish Scott give way?

Tavish Scott: Today could provide a chink of light. It could be a genuine opportunity. I thank Helen Eadie and Graeme Pearson for their thoughtful contributions, which were more than we had from the SNP.

Bob Doris: Will the member give way?

The Deputy Presiding Officer: Mr Doris, the member is not giving way.

Tavish Scott: Helen Eadie and Graeme Pearson made thoughtful contributions on the kind of Scotland that we might create if we really—[Interruption.] You know you are getting to them when they shout at you. You really know you are getting to them when they all start badgering away on the left wing. I suppose that Bob Doris is one of the left wingers speaking up over on the SNP benches.

We could take a different position from the UK Government, which would be progressive, right and part of a much talked-up tradition of Scotland’s social fabric. That was the argument that Graeme Pearson, Helen Eadie, Patrick Harvie and Alison McInnes made. Alternatively, we might not. If nationalist ministers do not support progressive change on prisoners’ rights, that is of course their right, but they should set out their principled case as to why Scotland should retain a complete ban on convicted prisoners voting.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): Will the member give way?

Tavish Scott: Ministers should say why Scotland being the same as Armenia, Bulgaria and Russia is better than being the same as Norway, Sweden and Finland. If Mr Stevenson wants to answer that question I am happy to give way.

Stewart Stevenson: Tavish Scott will be aware that the argument on prisoners’ rights is founded in protocol 1, article 3, of the ECHR, which also refers to

“free elections ... which will ensure ... free expression ... in the choice of the legislature.”

Given that 52.4 per cent of Westminster’s legislators are unelected, does Tavish Scott also support the abolition of the House of Lords?

Tavish Scott: Yes—I support the abolition of the House of Lords.

We hear many speeches from SNP ministers that say how Scotland’s social and humanitarian fabric would be all the stronger if independence happened. There is a pretty big gaping hole in that argument today. SNP ministers cannot, on one hand, make all those speeches that say that it will all be wonderful and then on this difficult but undoubtedly progressive issue ignore that argument.

Neil Findlay: Before Tavish Scott finishes his speech, will he apologise for associating some of the SNP members with those of us who classify ourselves as left wing?

Tavish Scott: It is far from me to get into what is left or right, but the one thing I know about Neil Findlay is that he is left wing. These days, I do not know what members on the SNP benches are.

MSPs have today extolled the virtues of giving 16 and 17-year-olds a vote in the referendum—rightly so. That is a genuinely correct decision. However, that case would be stronger if, after deciding to include some of our fellow citizens, they explained why excluding others is acceptable.

The Cabinet Secretary for Justice said recently:

“offenders should be sent to prison as punishment, but ... our prisons should also be about the rehabilitation and reintegration of offenders back into society as contributing citizens.”—[Official Report, Justice Committee, 26 February 2013, c 2380.]

Mr MacAskill is absolutely right about that and I commend his approach. I wish he would win the arguments in his cabinet for a change in position in prisoner votes. To allow prisoners who are on short term sentences to vote would—as the Howard League for Penal Reform has observed—send a powerful message that they remain part of wider Scotland with a stake in our nation’s future. To do the opposite would be to send precisely the opposite message.

Is this an issue of morality, the law or just politics for this nationalist Government? I sense that it is a political judgment. The principled and progressive argument—the argument that will not,
of course, find universal favour—is discounted. I suspect that that is because the Government has weighed up the political balance and wants to be safe. That is its right, and with its majority no progressive change in this area will take place to the bill. That means that not only I, but many other Scots will observe that when the nation’s politicians faced a genuinely tough call about building a better Scotland, they bottled it in favour of the politically safe status quo. That is a shame.

15:47

Stuart McMillan (West Scotland) (SNP): I welcome the opportunity to speak in this debate and at the outset I associate myself with the comments made by Bruce Crawford, the committee convener, and the Deputy First Minister regarding the assistance received by the committee thus far.

We have heard a great deal on voting for 16 and 17-year-olds, which I will return to after I raise the issue of equality, which is discussed in paragraphs 139 to 141 of the committee’s report.

Before I do that, I will make a comment about Tavish Scott, who spoke about the lack of positive commentary thus far in the referendum campaign. I suggest that he ask his colleagues in the better together campaign to put forward a positive narrative as to why Scotland should remain part of the UK, compared to what we want to see, which is Scotland becoming a normal independent country.

Regarding paragraphs 139 to 141, the evidence that we received from the National Deaf Children’s Society was very welcome. It related to an issue that I raised in committee regarding the colour of the paper to be used for young people registering for the first time. I raised that issue because I chair the Parliament’s cross-party group on visual impairment and am a member of the cross-party group on dyslexia. A number of my constituents and a number of my friends are dyslexic, and on more than one occasion they have raised with me the point that when they access information, the colour of the paper is very important to them.

I also raised the issue in committee because I genuinely believe that registering to vote is important for every single election. This referendum is a chance to fully engage with younger members of society. From representing constituents, I know that there are challenges in that regard, but if we want to make sure that young people who can register for the first time actually do so and feel that they are taking part in the process, we in Parliament must make sure that we do everything that we can to have a dialogue with them and make it easy for them to register. I also genuinely believe that if both sides of the debate want to fully engage with the people of Scotland we must ensure that not only the information that is issued but official documentation is available to all Scotland’s people. In that respect, I am keen to find out more about the testing process that the cabinet secretary mentioned earlier and which the committee touches on in its report. I wholeheartedly welcome the Deputy First Minister’s assurances about language, which was addressed in paragraph 140 of the committee’s report, but given the importance of the testing process to the referendum I would like to find out how that is going.

As for the franchise itself, I, like other SNP members, believe that it is right to lower the voting age to 16 for the referendum; indeed, I would like that to happen in every election and the lowering of the age limit in the referendum is certainly another important step in taking that forward. In the many debates that I have had with 16 and 17-year-olds not only during school visits to the Parliament but outside the Parliament, I have found their general awareness of current affairs something to be proud of. In fact, I gently suggest that many over-18s could learn a thing or two from them. The Scottish Youth Parliament’s consultation has been mentioned. It received more than 40,000 responses, which I think indicates that 16 and 17-year-olds want to take part in the political process and determine their own future—and, as far as this referendum is concerned, Scotland’s future.

I remember the first time I voted and although the outcome was—unfortunately—not the one that I wanted I can only imagine how huge a thing it will be for 16 and 17-year-olds to vote for the first time in next year’s referendum. Not only will it be their first vote but they will help to decide their future and the future of the country. I certainly associate myself with my committee colleagues’ praise of Emily Shaw MSYP and Andrew Deans MSYP, whose oral evidence was a lesson for everyone who is called to give evidence to the Parliament. I suggest that people go on to the Parliament website and examine what they said and how they said it.

Finally, on individual voter registration, I have to say that I have no qualms about its introduction by Westminster being delayed and think that it is the right thing to do. However, I also think it right to give EROs the flexibility to start the process on or around 1 October in all parts of Scotland. If the Scottish Government stipulated that registration must happen on a particular day, it would be accused of centralising power and, as I have said, it is right to give EROs that flexibility.
I look forward to the bill continuing its progress through Parliament. The people of Scotland have a choice: hope and aspiration, or austerity with the union.

15:53

John Pentland (Motherwell and Wishaw) (Lab): What people can do at what age has always been something of a guddle. The inconsistency in allowing a person to join the army and fight for their country while not allowing them to vote has been commented on many times. The voting age used to be 21—or 30 for women when they first got the vote—and I am sure that some of us in the chamber might have been among the first 18-year-olds to vote in the 1970 general election.

Now we are talking about further reducing the age to 16. At 16, a person can get married, work full time, drink in a restaurant—the ability to buy their own drink comes later—or buy a lottery ticket, and by 17 they are also allowed to drive a car. As it stands, however, they cannot vote.

As I said, it is a bit of a guddle, but considering what people can do when they are 16, it seems churlish to continue to exclude 16 and 17-year-olds from voting. Although we are considering voting in the referendum today, Labour has proposed that voting at the age of 16 should apply to all elections, not just the referendum. Let us face it—I am sure that all members agree—if someone is eligible to vote on the status of their country for the foreseeable future in a referendum on leaving the United Kingdom, surely they are fit to vote in elections that put people in power for only four or five years. Of course, I recognise the damage that can be done in four or five years, but if it does not include the irretrievable break-up of a successful partnership with neighbouring countries, the damage can largely be undone after the following election.

Lowering the voting age is not as straightforward as some might imagine. For starters, there is the issue of how to compile the list of eligible voters without compromising the personal data of those who are not yet old enough to vote. However, with a can-do attitude, such difficulties are not insurmountable.

There are other complications. We want people from Scotland who are serving abroad in the UK’s armed forces and families who are with them, including 16 and 17-year-olds, to be able to vote. By working together and not separately, the EROs and the MOD will ensure that any difficulties that that presents will be overcome.

With regard to prisoners, as my colleagues have said, we are not in favour of changing their normal exclusion from voting, but we should be able to see what legal advice the Scottish Government has received—or is this where the can’t-do attitude kicks in? I say to the cabinet secretary that if that legal advice is available, why does she not just publish it and remove all doubt?

Annabelle Ewing: Just in case the view of the Law Society of Scotland is of any assistance to the member, I point to its communication of 9 May 2013 on the issue of prisoner voting. The Law Society states that:

“Section 3 appears, on the basis of the case law to be compliant with the Convention. That, of course does not mean to say that the Section may not attract a challenge but such a challenge, on the basis of the current law is unlikely to be successful.”

John Pentland: As I said, all I am asking is that if the information is there, why not provide it and remove all doubt?

We must look beyond the issues of who can vote and who will vote. There is no doubt that the legitimacy of the referendum results in relation to the proportion of the population who voted will be subject to scrutiny. We should bear in mind the fact that voter apathy has seen turnout for Scottish Parliament elections drop from more than 58 per cent in 1999 to about 50 per cent in subsequent elections. Turnout in Scotland for Westminster elections is also falling, from 72.6 per cent in 1987 to 63.8 per cent in 2010, having been lower still in 2001 and 2005, when we had the lowest turnouts for the UK as a whole since the introduction of the universal franchise.

The Electoral Commission estimates that registration levels are running at a little more than 90 per cent and that, although the percentage of unregistered voters might be as low as 6 per cent in some areas, in areas of high levels of deprivation it can be more than 30 per cent. In particular social groups in those areas, more than half of those who are eligible remain unregistered.

We want a clear-cut decision that settles the question of Scotland’s constitutional future and puts paid to the distraction that every issue is subservient to it and overshadowed by it. That will not be achieved if there is a close result and a low turnout. In the first instance, therefore, we must pay particular attention to encouraging high levels of voter registration; having done that, we must then encourage a high turnout in the referendum.

The Deputy Presiding Officer (John Scott): You should draw to a close.

John Pentland: I welcome the intervention of the Scottish Council for Voluntary Organisations in the issue and its suggestions for targeting hard-to-reach potential voters, who are notably more numerous in areas of social deprivation, among young people and in black and ethnic minority
groups, as has been highlighted by the Electoral Commission research.

In conclusion—

The Deputy Presiding Officer: Briefly.

John Pentland: We must try to inspire people to vote, not put them off the idea. For many, this will be their first opportunity to vote. It will be a once-in-a-lifetime vote for everybody. Let us ensure that the running of the referendum does justice to that.

16:00

George Adam (Paisley) (SNP): I agree with John Pentland that we have to inspire young people to vote. We have to ensure that we debate in such a way that people want to put their crosses down, whatever part of the democratic process they are in.

I thank the committee for its work. The idea of votes for 16 and 17-year-olds has been part of my political life since I was 16. Unlike Richard Lyle, that was not in 1966—it was quite a while after that. I will not say when it was because I would embarrass the Deputy First Minister: there is just a year’s difference in our ages, so that would not be polite. She has obviously done a lot better over the years—she did not have the hard paper round that I had.

I remember how I felt during those two years between 16 and 18—I can just about remember that far back. At that age, someone is an adult but is not thought responsible enough to vote. I was involved in the political process but I never had the opportunity to make a decision on the future of my own community or on anything in the country. I was politically active but, at the same time, politically powerless.

Some of the debates that we had then were probably very similar to the debates that we are having now. During that period, it was not Trident on the Clyde, but Polaris on the Clyde—I am showing my age now—and people were talking about the replacement for Polaris. A similar debate is still going on. Instead of the bedroom tax, we had the poll tax. That shows that Westminster does not change—there is no difference. We are still having these debates, and lots of young people are involved and want to discuss and vote on the issues because they want to see what can happen in the future.

We have difficulty engaging the public in political processes partly because by the time that some people get to a certain age, they become very cynical about politics as they have not seen any progress. For me, independence offers all of us in the chamber the opportunity to show what we can do and to talk about Scotland. We ask for an opportunity to tackle child poverty—another issue that we discussed way back then—and to ensure that we do not get dragged into illegal wars.

Young people have opinions on all those issues and it is important that 16 and 17-year-olds get the franchise and the opportunity to be involved in the ambitious new Scotland that we all want. All this has been brought about by the Scottish Government negotiating with the Westminster Government. Incidentally, I look forward to the Scottish Government continuing to negotiate over the next couple of years and to the Deputy First Minister continuing her good work on that—that is what we have to do to ensure that we get the Scotland that we are all looking for.

I turn to some of the groups that have told the committee what they want. As has been said, Robin Parker of NUS Scotland is extremely positive about the fact that the Scottish Government and the Westminster Government have agreed that we should extend the franchise for the referendum. The Scottish Youth Parliament has campaigned for votes for 16-year-olds for more than a decade. Those people desperately want to ensure that everyone can be involved in the debate.

I am pleased that the cabinet secretary said that the electoral roll will be dealt with in such a way as to ensure that 16 and 17-year-olds are treated with respect. My colleague Linda Fabiani asked about the electoral roll, and it is important to ensure that access to the register of young voters will be strictly limited, as has been said. We have to ensure that people who will be 15 years old when they register are protected.

The Educational Institute of Scotland has strongly supported extending the franchise for all future elections to 16 and 17-year-olds, and I agree with it. As I said, we have to ensure that we enthuse young people when they first start to get involved in the political process so that they remain involved and continue to take an active part in public life in Scotland.

As members know, the long-standing policy position of Unite, which is my union, is to allow young people to vote at 16.

Jackson Carlaw (West Scotland) (Con): Is the member perhaps confusing enthusiasm with extending the vote? Participation in elections by people aged between 18 and 24, who already have the vote, is decidedly low, so how does he propose to enthuse those people? Rather than just extend the franchise, we need to encourage people to use their vote.

George Adam: The same could be said about almost every other demographic. The whole idea is that we are showing the public how they can make a difference. People end up disengaging
because they do not believe that their vote will make a difference, so they become very cynical about politicians. This is about having a vision and a passion for the future of the country. That is what will make a difference for many people.

On whether prisoners should be able to vote, I agree with the Scottish Government’s view that individuals who have committed a crime have broken their pact with society, so I do not agree that they should have the opportunity to vote in the referendum. I gently remind Labour members what Labour’s shadow justice secretary, Mr Khan MP, said:

“Labour has consistently believed that those deprived of their freedom after being given a custodial sentence shouldn’t be entitled to vote. While we recognise the importance of the European Convention on Human Rights and the European Court of Human Rights, we feel the original decision back in 2004 was wrong, and that’s why the Labour government didn’t implement it’.

Labour members may say that they want the franchise to be extended to prisoners, but that is not what is being said down at Westminster.

In closing, I believe that getting younger people involved with politics at an early stage will ensure that we enthuse them. Their engagement with the political process is the important thing—

The Deputy Presiding Officer: You should draw to a close, please.

George Adam: —and I look forward to that happening in future.

16:07

Michael McMahon (Uddingston and Bellshill) (Lab): I am grateful for the opportunity to make a short contribution to the debate on an issue that I do not think has come up yet.

Like many members of the public and commentators who are interested in the forthcoming referendum, I look forward to the time when the process of the plebiscite makes way for the debate on the substance of the issue. However, in the meantime, the technical aspects of the referendum vote must be addressed. Therefore, I welcome the bill, although, like organisations such as SCVO, I look forward to moving towards that wider discussion on how we encourage all those Scots who will have the opportunity to vote next year to get involved in the debate.

On the technicalities of the referendum, I remain concerned about one aspect of the financial memorandum that came to the attention of the Finance Committee, of which I am a member. Unfortunately, the bill is another in an increasing list of bills whose financial memorandum has not withstood the rigours of the committee’s scrutiny.

When the committee considered the recent underoccupancy legislation, we found that the Scottish Government was less than robust when defending the financial assumptions that it had presented to Parliament. For that legislation, the projected costs were tens of millions of pounds out, but the best defence that the officials could come up with was a hope that they were right, rather than a detailed rebuttal of the concerns that had been raised about their financial assessment. Although the degree of disparity in relation to the Scottish Independence Referendum (Franchise) Bill is much less—it can be counted in a few thousand pounds—the fact is that there remains a difference and therefore a technical problem with the financial memorandum. The principle remains the same, in that a lack of financial robustness emerged during our scrutiny that is worth highlighting.

In the case of the Scottish Independence Referendum (Franchise) Bill, we were told that the figures in the financial memorandum were calculated on the basis of advice from printing companies that printing and postage costs accounted for roughly 25 per cent and 75 per cent respectively of the cost of printing and distributing the forms. I welcome the fact that the Government’s officials agreed to look again at their assumptions about the cost of sending out reminders. Unsurprisingly, when they did so, using information provided by contractors who currently provide such a service to registration officers in Scotland, they concluded that the cost of issuing and receiving the reminders for the young voter registration form, which will be sent to 40,000 households, will be much more than the £6,000 that is outlined in paragraph 14 of the financial memorandum.

It might well be that, in the event, significantly fewer than the 40,000 reminders that are projected in the assumption are needed. However, the issue needs to be taken into account. It is not acceptable practice to make an assumption in the financial memorandum and then later to dismiss it. The estimate that was set out in the financial memorandum was too low and must be corrected.

I appreciate that officials have already written to the software providers to ask for revised quotes given the changes that might be necessary as a result of the possible changes to the electoral software. As a result, the financial memorandum might have to be amended. I welcome the commitment that the officials gave the Finance Committee that they will do the same in relation to printing companies and forms. However, the officials advised that they will be able to submit any revisions to the financial estimates in the financial memorandum only just ahead of stage 3. I would therefore be grateful if the cabinet secretary could update us on progress and commit
to providing the information that has been promised as soon as possible, rather than leaving it to the last minute.

I doubt that the problem would, or even should, prevent the passage of the bill but, given the pattern of contentious financial assumptions being brought before the Parliament, I would welcome more accurate projections for members’ consideration so that reassurances could be sought sooner rather than later.

16:11

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I welcome the debate, which is an important milestone along the way to the referendum next year. I thank the Referendum (Scotland) Bill Committee for its helpful stage 1 report.

I will pick up on a few of the issues that have been raised in the debate. In particular, I will focus on the extension of the franchise to 16 and 17-year-olds. A referendum on Scotland’s future should let those who are the future of Scotland have their say, and it would be fair to define Scotland’s 16 and 17-year-olds as the future of our country. Personally, I have supported the extension of the franchise to 16 and 17-year-olds for some time. They can, as has been remarked on, enter the world of employment, get married, have children and join the armed forces, so I believe that we should grant them the right to vote.

It has been argued that 16 and 17-year-olds are not endowed with the full swathe of rights that those who are older have. John Pentland referred to the situation as a “bit of a guddle”. The question is posited: why should such people be endowed with the right to vote? However, it is important to note that we enfranchise people not on the basis of their having uniform rights, but because they have certain responsibilities. We allow for that possibility with 16 and 17-year-olds, so we should give them the vote.

The arguments that have been made against the measure seem somewhat spurious. The old idea that 16 and 17-year-olds are not mature enough to get the vote sounds very much like the arguments that were made when the age of enfranchisement was lowered to 18 from 21, although I should point out that that was before my time. It would seem ludicrous now not to enfranchise 18-year-olds. As an aside, I point out that we do not actually enfranchise people on the basis of their maturity—that is probably a good thing for many of us.

Another argument is that turnout might be low among those who are 16 and 17, given the evidence of turnout among 18 to 24-year-olds. Mr Carlaw reasonably made that argument. Clearly, it is important to enthuse voters of all ages—doing so is incumbent on all of us who are involved in the political process—but we should be clear that we enfranchise people not on the basis of the likelihood of their voting, but on the basis that, because they are endowed with certain responsibilities, they should be endowed with certain rights, including the right to vote.

Many of those issues are probably moot points anyway because although there is not quite uniform agreement in the committee, there seems to be overwhelming support for giving 16 and 17-year-olds the vote. I welcome that broad support, because it was not always clear that that would be the case. It is a welcome step forward. We have seen widespread support from civic Scotland to extend the vote to 16 and 17-year-olds. For example, a majority of the respondents to the Scottish Government’s consultation document “Your Scotland, Your Referendum” said that they broadly agreed that 16 and 17-year-olds should have a vote. Many organisations have set out their support for that proposition as well.

Concern has been expressed about armed forces personnel not being able to participate in the referendum. It is clear that they will be able to do so because the franchise will be based on that for the Scottish Parliament and local government, which means that service or Crown personnel who are serving in the UK or overseas in the armed forces or with her Majesty’s Government and who are registered to vote in Scotland will be entitled to vote.

Patricia Ferguson has highlighted a reasonable concern about the sons and daughters of some who make a service declaration and still live with those service personnel not being able to vote. However, I note that the committee has taken that on board and is urging the Scottish Government to discuss the matter with the UK Government and “explore all possible options for enabling young people to vote if they are of voting age”.

I look forward to seeing where those discussions go.

An issue that has not featured so much in this debate but which featured heavily in our earlier discussions about the referendum is the extension of the franchise to people outwith Scotland. Dr Elaine Murray secured a members’ business debate on the matter.

It is, ultimately, sensible that those who live in Scotland are the ones who determine the country’s future. That has also been the basis for previous referenda. When Henry McLeish was the minister responsible for the devolution referendum, he said:

“The key criterion for deciding who should vote, in terms of our proposals, must be residency … I accept that people
in parts of the United Kingdom other than Scotland and Wales will have a genuine interest”.

However, he continued,

“eligibility to vote must depend on more than just interest.”—[Official Report, House of Commons, 3 June 1997; Vol 295, c 273.]

That was a sensible position in 1997 and it is a sensible position now.

I welcome the debate. I look forward to the bill proceeding to stage 2. Above all, I look forward to the main Referendum (Scotland) Bill being passed by the Parliament so that we can move forward to the referendum and Scotland can move forward to independence.

16:17

Patrick Harvie (Glasgow) (Green): I echo the convener’s thanks to my fellow committee members, our clerks, our advisers and those who gave evidence.

Like other members, I am excited to be passing a bill that reduces the age of voting to 16. It is an extremely positive move. Like others, I have visited schools and hosted school groups in the Parliament and I tend to find pretty much the same range of enthusiasm, awareness and interest in politics as I do in other public meetings or out on the doorstep with other age groups. It seems completely wrong to deny young people the right to exercise the vote if they are interested in doing so.

Like other members, I want the voting age to be reduced for all elections. Helen Eadie was the first to mention that, but others have as well. What we do with this bill could be a huge step towards that or a step away from it, and that will be determined by turnout. If there is a pitiful turnout of 16 and 17-year-olds, we may well harm the wider, longer-term argument—whether in Scotland or the UK—about a reduced voting age in elections. It is down to all of us to try to achieve a really high turnout by ensuring that the education, the engagement and the promotion of participation are of a really high standard. If we get a really high turnout of 16 and 17-year-olds, we will have hugely strengthened the case for wider changes to the electoral franchise in the future in Scotland or the UK. I look forward to doing that.

Most of my remarks will address the issue of convicted prisoners voting. I acknowledge that the Deputy First Minister has said on several occasions in the chamber and in committee that it is for those who seek to advance the change to present arguments in favour of it and I intend to try to do so. However, I entirely reject the implication that the Government is not advancing a change in the position and does not need to demonstrate arguments for doing so. Generally speaking, the electoral franchise is used as the starting point for the franchise in referendums, and the Government is trying to advance a change away from that. Section 3 of the bill implies that, even if UK legislation on the electoral franchise is brought into line with ECHR, that will not be the case for this referendum. For this referendum, a blanket ban will continue to apply even if the electoral franchise is changed. The Government needs to advance a reason for that just as much as those of us who argue for the principle of ending the blanket ban on prisoners voting need to advance our arguments.

Our arguments are practical as well as legal and principled. On the practical arguments, the blanket ban throws up so many anomalies. Two people might be given exactly the same sentence on the same day, but because one of them is judged to be more of a threat to the public, they might serve parole and that could be knocked off the end of their sentence. They could then be released earlier and be able to vote, precisely because they were considered to be a more serious threat to society than the other person, who was at liberty up to the point of their conviction. The anomalies that arise have to be resolved by ending the blanket ban.

That does not mean that we cannot have other approaches, such as leaving it to individual courts to decide, when they make sentences, whether someone has committed a crime that justifies the deprival of the franchise, or having a time limit of six-month sentences, which I have suggested, or the longer time limit that the Liberal Democrats have suggested. There are a range of alternatives to the blanket ban that would avoid some of the practical consequences.

There are also legal arguments, as we have heard. Article 3 of protocol 1 to the ECHR seems to specify elections. The wording refers to “elections ... by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”

and that has been taken to mean elections and not referendums. However, it leaves what the case should be for referendums entirely up to national Governments, and in this case a devolved Government. The Deputy First Minister takes the position of saying, “We support the ECHR and want to incorporate it into a written constitution for Scotland”—I agree with her on that—and she therefore accepts that a blanket ban on prisoners voting in elections is wrong, as that is not acceptable under the ECHR. Why, then, is there a desire to have a different approach to human rights compliance in respect of referendums than in respect of elections? The Government should advance an argument for that.
There are also caveats, which the information from Professor Tierney has made clear. For example, the referendum on the European Economic Community was deemed to be of a "purely consultative character", and that is part of the reason why the ECHR ruling did not apply to it. There are legal arguments that indicate that the outcome of a challenge is unpredictable and not guaranteed.

Finally, there are moral arguments. Although I disagree with the Church of Scotland about many issues, such as the nature of existence, it argues clearly that the criminal justice system should have at its heart the aim of restoring broken relationships between the offender and the community.

It states:

"Punishment does not seek to deny human dignity to anyone, but to restore it."

That is the moral case, and the Government must also respond to that.

16:24

Clare Adamson (Central Scotland) (SNP): I share with the Parliament the fact that my family is a bit stressed at the moment. If I say that that is due to the fact that my son is sitting his standard grades, members will understand that he is one of the teenagers who will benefit from the extension of the franchise and who will be able to vote in 2014. I asked him and, more important, he gave me his permission to share with members what the opportunity to vote means to him. He said:

"I’m pleased, really pleased, that people trust us enough to let us take part."

Trust is key to this decision. It is about trusting our young people to take part in the decisions that will affect them.

My son is very much in my thoughts at the moment, for obvious reasons, and I have been thinking about a visit that we had to the Houses of Parliament a few years ago, when he was a bit younger. We went into St Stephen’s hall and saw the damage that had been done to the Falkland statue by one of the suffragettes, who chained herself to it when fighting for votes for women. It was very emotional for me, and more so because I was able to share the experience with my son and explain to him what the suffragette movement was about. He recently took me aback when he asked whether I would have been a suffragist or a suffragette. That gave me pause to think, but I will keep my counsel on that.

We should not lose sight of the importance of the right to vote that we are extending to young people, and of how hard fought for it was, at incredible cost to many people over the centuries. It is held dear by so many and, unfortunately, is denied to so many others. It was recently exercised by the citizens of Pakistan. I am very proud to be serving as an elected member of this Parliament as we extend the voting franchise to our young people.

In his speech, Tavish Scott admitted to being a confused Liberal Democrat—although that did not seem much of a surprise to me. He said that he does not know where we are. I will not lose sleep over that, as the Scottish people know where the SNP is, and that is why they delivered the overwhelming majority that we have in the Parliament—it is why they gave us their support. I suspect, however, that Mr Scott is losing sleep over his party’s performance in the local elections last week, after the Liberal Democrats shackled themselves to the most right-wing, socially divisive party in recent history. When Mr Cameron comes forward with his referendum on Europe, which has been driven by the UK Independence Party, the same rules will apply to that referendum as to the one that we are discussing now.

Mark Harper has said:

"The right to vote will be restricted to UK Westminster Parliamentary and European Parliament elections only, and not in other elections or referendums."—[Official Report, House of Commons, 20 December 2010; Vol 520, c 151WS.]

I hosted an event in the Parliament last year for the awards network, which brings together many voluntary youth organisations, uniformed organisations and charities in celebrating the non-academic achievements of young people. It included Duke of Edinburgh award participants, the John Muir Trust, scouts and guiding associations, sports associations and charity fundraisers. It included hundreds of the children from North Lanarkshire who participate in the St Andrew’s hospice climb of Ben Nevis every year.

Our young people are conscientious contributors and responsible citizens. They are tackling some of the most serious issues that affect our society. That includes the stand up to sectarianism project and the Machan Trust in Larkhall in my region. Those who are participating in the Mark Scott leadership awards are tackling and challenging the blight of sectarianism in our communities. I trust those young people to take a full part in the referendum.

Our 14-year-olds who will have the vote have spent their entire school lives studying under curriculum for excellence, which is underpinned by the four capacities of being successful learners, confident individuals, responsible citizens and effective contributors. I can think of no better reinforcement for our young responsible citizens than extending the voting franchise to them. It is my ambition that all our young people will be
informed and fully engaged in the referendum process.

I hope that they will vote. As some members have said already this afternoon, a good turnout in the referendum is to the benefit of all of us. I have some sympathy—I stress a personal sympathy—with the Australian system of compulsory voting, but I recognise that no system is perfect and that we are all responsible for ensuring the turnout at the referendum.

I will finish by mentioning Abraham Lincoln’s views on the subject. He said:

“Elections belong to the people. It’s their decision. If they decide to turn their back on the fire and burn their backs, then they will just have to sit on their blisters.”

I hope that, on 19 September 2014, however our people decide to vote, we will wake up to few blisters and a confident and socially just Scotland, looking forward to our future.

The Deputy Presiding Officer: I call Margo MacDonald, who has up to two and a half minutes, please.

16:29

Margo MacDonald (Lothian) (Ind): Woo! Thank you very much, Presiding Officer.

I am with Abraham Lincoln. He accepted that people are individuals and that some folk would get too close to the fire while others would have the sense not to. This afternoon, we have made a wee bit of a meal of the difficulty of holding a referendum. I am old enough to remember the 1979 referendum. I am old enough to have taken part in it. Do you know something? We did not get into much of a fankle over information. Right at the very start, the Government of the day—Mr Callaghan, not of my persuasion—produced an information leaflet that tried to inform people evenhandedly of the different questions that they would have to answer. I regret that this Government has not done the same thing. If it is looking for somebody to write it, I will do it.

I am quite serious about that. I feel that we have been a bit serious this afternoon in how we are approaching the referendum. A lot of people are quite joyous at the chance of getting a referendum on Scottish independence—that is what we should try to get young people enthused about. They are no different from old people—some of them will, and some of them will not.

I have 10 grandchildren—10 of them, believe it or not—and, come the referendum, I cannot guarantee 10 votes, because they will all do their own thing. Like anyone else, in any other age group, they will have different levels of interest. We should not get too hung up on making exceptions.

Talking of exceptions, I think that we are going down a very dangerous road when we start to make exceptions of prisoners—the ones who might vote and the ones who might not. Then, we start deciding what is a slightly worse crime than, say, drink driving. Is it worse for someone to beat up their wife? That is the sort of judgment that a judge or a sheriff will make; we should not make judgments like that. If we take the Government’s point of view, people are either prisoners or they are not, and if they are, they should not vote. On the other hand, if we take the point of view of some on this side of the chamber, and judge prisoners by a different set of criteria, prisoners are people about to rejoin society. We have not, by any manner of means, worked that out to my satisfaction.

I thank the Presiding Officer for the chance to say that.

The Deputy Presiding Officer: It is a pleasure.

16:32

Jackson Carlaw (West Scotland) (Con): Not so long ago, we were visited in the Scottish Parliament by the premier of Quebec, Pauline Marois. She was very interesting and had quite a lot to say on the subject of referendums. It turned out that she also shared with the Deputy First Minister and me a considerable and detailed interest in the doings of the fictional Prime Minister of Denmark. Her busy schedule had not allowed her the opportunity to engineer a personal meeting, but I am sure that she would have welcomed that.

We should be mindful of a point that she made, which was that while the turnout in Quebec’s general elections was similar to our own, the turnout in its two referendums was in excess of 90 per cent. I hope that the one thing that we can all agree on is that we need to ensure the widest possible registration of everyone in Scotland to participate in the referendum when it takes place.

The referendum may have a lasting impact on the participation thereafter of people in Scotland in elections to this Parliament and—I trust—to Westminster. It is therefore important that we ensure that such wide registration takes place.

There have been two areas of controversy. I am inclined to accept Jamie Hepburn’s point that one of those is unlikely to be widely shared—it is a concern that remains for the Scottish Conservatives—and that is the issue of whether 16 and 17-year-olds should vote. It may not be the case that all are better together, but this afternoon they are all bundled together in the view that the franchise should be extended to 16 and 17-year-olds.
I remain fairly open and sympathetic to the arguments in that regard, but I am not as yet fully persuaded. I think, fundamentally—this is a point that Stuart McMillan made, although I do not think that he intended it to support my argument—that the decision should be taken in respect of all elections that take place in Scotland and the United Kingdom, and that the referendum should not be a guinea pig on which to test the proposition.

Jamie Hepburn: The member said that he potentially wanted the franchise to be extended to 16 and 17-year-olds on a basis that goes wider than the referendum. Does he accept the limitations of this Parliament in that regard?

Jackson Carlaw: Yes. The decision should be taken in respect of all elections throughout the United Kingdom, so I am not minded to support the approach uniquely in respect of the referendum.

Members who talked about extending the franchise to prisoners listed countries that do not do so, but very few members listed countries that have extended the franchise to 16 and 17-year-olds. Among the limited number of countries that allow 16 and 17-year-olds to vote are Iran, Nicaragua, North Korea, Cuba and Sudan. Members might make the argument on one aspect by listing countries; it is perfectly possible to do that to make the argument on another aspect.

The point that I want to make on behalf of the Conservative Party, which will vote against the principles of the bill this afternoon, is that we certainly do not think that young people are not mature enough to make the decision. Young people are every bit mature enough to do so.

Jamie Hepburn: Will the member give way?

Jackson Carlaw: Five minutes in the company of many 16-year-olds persuades me that their voices are far more mature than many of those that I hear coming from behind the Deputy First Minister most weekday afternoons. I will take an intervention from Mr Hepburn.

Jamie Hepburn: I thought that the member might give way on that point and I thank him.

The member listed countries in which 16-year-olds can vote, but he omitted to mention the Isle of Man, Jersey, Guernsey, Austria and Brazil, as well as Germany, in relation to Länder elections. I wanted to put that on the record.

Jackson Carlaw: That was very kind of Mr Hepburn. I do not think that his list excuses the rest of the company in that regard.

When Mr Mason intervened, I began to think that he was referring to an occasion on which I was with him, when we were at a school and we were asked whether the school would have sufficient information at its disposal. If he was referring to the occasion on which we were both present, he did not say that he was at his old school. I thought that it was quite something that his old school was querying the point.

I do not think that the issue at hand is whether or not young people are mature enough to consider the issues, nor do I fear the verdict of young people. I think that an unintended—for SNP members—and beneficial consequence of the extension of the franchise to people aged 16 and 17, which it appears will go ahead, is that the verdict of young people will be every bit as decisive as that of the rest of the electorate in rejecting the proposition that is before them. A further unforeseen consequence of such a result for SNP members is that it will render invalid arguments for a campaign for a second referendum. A generation will have decided that that is not a course that it wishes to take, well into the future.

For Conservatives, the issue is the principle that the decision to extend the franchise should be taken not uniquely in respect of the referendum but, in the round and after further consideration, in respect of all elections.

Members, principally Mr Harvie, made the point that the franchise should be extended to prisoners. I accept the Government's verdict on that. Bruce Crawford set out the evidence that the committee heard on the point. I thought that Mr Harvie touched on the principal issue, which is that the ECHR applies to the election of individuals to a legislature, by law, as part of a democratic process, whereas the referendum is a creature of the legislature, which decides to consult the people. Ultimately the decision in the referendum is not binding; the final decision must be taken by the legislature that commissioned the referendum. For that reason, I do not favour the extension of the vote to prisoners.

As I said, I do not favour the extension of the vote to young people aged 16 and 17, but that is certainly not because we have any lack of confidence or belief in young people's ability to decide issues that are of great consequence for their country.

16:39

James Kelly (Rutherglen) (Lab): I draw members' attention to my entry in the register of members' interests. My brother is Tony Kelly, who is a solicitor and sole proprietor of Taylor & Kelly, which is a legal company.

I thank the clerks for their work in support of the committee, SPICe and the advisers, and I pay
tribute to the committee’s convener, Bruce Crawford.

Aside from the Conservatives, there was broad support in the committee for extending the franchise to 16 and 17-year-olds. As Bruce Crawford said, the witnesses from whom we took evidence included Andrew Deans MSYP, who had taken part in a consultation in which there were 40,000 responses. There was a fair degree of support from young people for extending the franchise in the referendum to 16 and 17-year-olds. As John Pentland argued, there is a strong case for extending the franchise in all elections. I think that we all hope that that participation in the political process will strengthen it and result in more young people participating, although that should not be the be-all and end-all.

It is clear that the main issue of difference in the debate has been votes for prisoners. The debate has been interesting, and we have heard different views from different members. Stage 1 debates are opportunities for people to put forward different views.

Alison McInnes: There has rightly been much praise of our 16 and 17-year-olds and for our young people being involved in the process. At the start of March this year, the Scottish Youth Parliament voted by a majority in favour of extending the right to vote to prisoners. Was it wrong about that and right about everything else?

James Kelly: Perhaps if the member had allowed me to expand on my views in that area, I would have dealt with her point.

There are two aspects to the debate on votes for prisoners: whether the franchise should be extended to them, and the legal issues around the question. I am not persuaded that the franchise should be extended to them. I look at examples in my constituency, where constituents have been victims of domestic abuse, stalking and antisocial behaviour. Even under the restricted terms proposed by the Liberal Democrats, I am not convinced that people who have committed such crimes and have to serve custodial sentences should have the right to vote in the referendum.

Patrick Harvie: Mr Kelly is doing what it is always tempting to do in such debates in listing some very serious offences, as though the implication is that everyone who is a convicted prisoner is a very bad person whom we should judge harshly. Is it his view that someone who is in prison for days or weeks for a trivial offence should be treated in exactly the same way in relation to the franchise as some of the very serious offenders whom he is talking about?

James Kelly: As Mr Harvie is aware, the SNP Government, supported by others, has ended custodial sentences of three months or less. No one goes to prison for days or weeks, so that is not a valid example.

The debate about rehabilitation is important. We need to ensure that prisoners get proper education and support so that they can return to society. Perhaps if they reflect in prison on the crimes that they have committed that resulted in their being sent to prison, it might change their attitude and they would enjoy voting when they were free in society.

Margo MacDonald: We are into heavy territory. Is it true or not true that someone could be serving a custodial sentence while someone who might previously have been in jail could be outside with a tag? Both will have offended against society. Why should we judge the one who is in jail according to our administrative arrangements more harshly than the person who might have previously been in jail after being sentenced?

James Kelly: The argument that Margo MacDonald advanced earlier about different sentences and different approaches merely confirms the view that extending the franchise could cause practical difficulties. Just now, the principle is that, if someone commits a crime and is put in prison, they lose the right to vote. I think that that principle should remain, although I recognise that there are legal issues that need to be addressed in terms of the wider debate. I seem to have spent a lot of my time discussing that subject—I am only just getting to the legal issues for the Scottish Government.

We received evidence from the Law Society and Professor Tierney, which broadly came down in favour of the Scottish Government’s position. However, the Law Society’s submission concluded that the legislation only “appears” to be compliant, and Professor Tierney’s submission said that the outcome of a legal challenge “may be unpredictable”.

In the committee, I listened carefully to the Deputy First Minister, and I listened carefully again today. The Deputy First Minister’s position is simply to assert that what the Government has proposed is compliant and to draw attention to the submissions from the Law Society and Professor Tierney. I do not think that that is good enough.

The Law Society’s submission was only a single page. We need to be confident that the legislation can survive a legal challenge. Therefore, it is incumbent on the Deputy First Minister to publish the details, to show us the assessments and not to hide behind the legal submissions of others. She should let us see what the Government’s thinking is.

John Mason: Will the member give way?
James Kelly: I am sorry. I have run over on the issue of prisoners' votes. I want to touch briefly on some of the other issues.

Helen Eadie correctly pointed out the importance of electoral registration. It is important that we get the autumn canvass started as early and as consistently as possible.

Linda Fabiani talked about the protection of young people's data. We heard a lot on that in the committee, and we were right to be wary of publishing data relating to 14 and 15-year-olds. It was correct to seek the reservations that we got.

It is incumbent on us all to play a part in raising awareness. It is a massive issue and a really big decision for Scotland. I agree, to an extent, with what Margo MacDonald said. Up to now, we have got bogged down in the process. This is a big debate involving a clash of ideas. Moving forward in the process, it is important that all of us, on both sides of the debate, come up with ideas and policies that will motivate voters on both sides to come to the polls, ensuring that we get a massive turnout. I hope that the result will be a rejection of separation.

16:49
Nicola Sturgeon: For the most part, it has been a good debate with some good speeches. There is some food for thought for the Government as we move to the next stage of the legislative process. I thank everybody who has taken part in the debate, and I repeat my earlier thanks to the committee for the detailed work that it has done at stage 1.

I will respond to some of the specific issues that have been raised. It will not surprise anybody to hear that I will shortly come to prisoner voting, which will probably take up most of the time that is available to me.

I will respond to a couple of the more technical points that were raised at the outset, just in case I do not get the chance to do so later on. Patricia Ferguson and, I think, Annabel Goldie raised the issue of the delegated power in section 11. The Government has made it clear, and I am happy to do so again, that we have no specific intention of using that power. We have taken the power to provide flexibility so that we can make necessary adjustments to the provisions that the bill makes. It is important that we have that flexibility, because any adjustments would need to be made swiftly, given that registration officers will need to begin any adjustments would need to be made swiftly, is important that we have that flexibility, because any adjustments to the provisions that the bill makes. It provide flexibility so that we can make necessary adjustments to the provisions that the bill makes. It is important that we have that flexibility, because any adjustments would need to be made swiftly, given that registration officers will need to begin work on implementation as soon as the bill is enacted.

The other point that it is worth bearing in mind is that the bill is closely connected to the main referendum bill—the Scottish Independence Referendum Bill. We have explained why the two bills are being progressed separately, and the main bill will still be subject to amendment once the bill that we are debating has been passed. Therefore, we need the flexibility that the power in section 11 gives to bring the two bills into sync, should that turn out to be necessary in the light of any amendments that are made to the main bill. That is the thinking behind the power. As I said, we have no current plans to use the power, and it is clear that, if it were used, the processes that would have to be gone through would give the Parliament due opportunity for scrutiny.

The other more technical point was made by Michael McMahon—I am not sure whether he is still in the chamber. He raised a point about revision of the financial memorandum. In response to the Finance Committee, my officials undertook to submit revisions to the estimates ahead of stage 3, not “just ahead” of it, as the member suggested. Revised estimates will require to take account not just of the issue that Michael McMahon mentioned but of any changes that might be made to the bill at stage 2, which is currently scheduled for 6 June. Therefore, we cannot give an update prior to then, but we will submit any necessary revisions as soon as possible after that, to allow the Finance Committee to consider the information ahead of stage 3. I hope that my assurances on those technical issues are helpful.

On prisoner voting, I listened carefully to members' contributions. Perhaps not surprisingly, given that I am a former lawyer, the issue interests me greatly. I do not think that it is a black-or-white debate, nor one that is entirely about right or wrong. I have thought carefully about the matter and have given it careful consideration in reaching the view that I have reached, as I am sure that members on the other side of the debate have done in reaching their views.

Some good contributions have been made by, for example, Graeme Pearson—in the part of his speech in which he dealt with the subject, if not in some of the rest of it—Helen Eadie, who made interesting points, Alison McInnes in her intervention in my opening speech, Patrick Harvie and Margo MacDonald.

I hope that Tavish Scott will take this observation in the friendly way in which it is intended: I thought that the tone of his speech undermined its coherence and effectiveness. Perhaps he is frustrated at languishing on the margins of the Opposition—who knows? He is fully entitled to argue that whether prisoners get the right to vote is the key test of a progressive society, but he is not entitled to assert that those of us who take the opposite view have not given any reasons for doing so or thought about the issue as carefully as he has. I hope that he will
listen carefully to the rest of what I have to say on
the subject.

I want to divide my remaining remarks on
prisoner voting into three key chunks: principle,
law and consistency, which is the issue that
Patrick Harvie raised. I might also have a word
to say about the Labour position.

On principle, I believe, as all members do, in
active engagement and participation in
democracy—that is why I want 16 and 17-year-
olds to vote—but I also have a strong belief in
the balance between rights and responsibilities. That
is partly why I take the view that I do on prisoner
voting. I believe that, when an individual commits
a crime and is sentenced to a custodial sentence,
because the judge considers that the severity of
the crime or the circumstances of the case merit
such a sentence, the individual loses several
rights that the rest of us take for granted, including
the right to vote for the period for which they are
incarcerated.

Patrick Harvie: Will the cabinet secretary give
way?

Nicola Sturgeon: If the member will let me
progress, I will take an intervention from him later
if I have time.

I do not know whether this is the point that
Patrick Harvie was going to make, but I believe
that to be the case for elections as well as for this
referendum. Personally, I do not believe that
prisoners should have the right to vote in
elections, but I will come back to the consistency
point in a second.

Patrick Harvie: Will the minister give way?

Nicola Sturgeon: No. I am going to make some
progress if the member does not mind.

On the legal position, ECHR refers to voting in
elections to national legislatures; it does not refer
to voting in referendums. That is why my view, and
the view of experts, is that a legal challenge would
not succeed.

On Patrick Harvie’s points about consistency,
the first and perhaps most obvious point to make
is that the bill is consistent with how things stand
just now: prisoners do not have the right to vote in
elections. That might change in future, although it
is not a change that is within the power of this
Parliament. We are legislating now and I think that
it is important that we give certainty about the
referendum franchise now. If the Government is
not convinced at this stage on the basis of
principle, I do not think that it would be a
reasonable position to change the law in
anticipation of an inconsistency that might arise at
some time in the future.

Patrick Harvie: Will the minister give way?
and Professor Tierney, that she can use to back up her argument that the position is legally compliant?

Nicola Sturgeon: The position on this bill is the same as it is on any other bill. We take a judgment about whether we think the bill is ECHR compliant and the Parliament has to make its judgment. I simply say to Labour, “Make up your minds on this. You are entitled to do that, but do not use the fig leaf of legal advice to get over any difficult issues you might face.”

A number of issues have been raised, such as on service personnel and their children, awareness raising and interaction with individual electoral registration. Those are all points that the Government will take into account as we move forward to the next stage of the bill. In the meantime, I thank all members who have contributed.
Decision Time

17:00

The Deputy Presiding Officer (John Scott):

There is one question to be put as a result of today’s business. The question is, that motion S4M-06545, in the name of Nicola Sturgeon, on the general principles of the Scottish Independence Referendum (Franchise) Bill, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
Allan, Dr Aisalsair (Na h-Eileanan an Iar) (SNP)
Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northem and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseannna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cowdenbeath) (Lab)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
McDonald, Gordon (Edinburgh Pentlands) (SNP)
MacDonald, Margo (Lothian) (Ind)
Macintosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Alieen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gll (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
Yousaf, Humza (Glasgow) (SNP)

Against

Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
McCrorie, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

The Deputy Presiding Officer: The result of the division is: For 97, Against 12, Abstentions 0.

Motion agreed,

That the Parliament agrees to the general principles of the Scottish Independence Referendum (Franchise) Bill.
LETTER TO THE CONVENER FROM NICOLA STURGEON, DEPUTY FIRST MINISTER

The Committee’s Stage 1 Report on the Scottish Independence Referendum (Franchise) Bill called on the Scottish Government “in discussion with the UK Government, to explore all possible options for enabling young people to vote if they are of voting age and are only resident outside Scotland because the family has moved to be with a parent serving in the armed forces, and to report on this prior to Stage 2”.

We have investigated the options for allowing these young people to register to vote in the referendum and the attached note sets out the background, an estimate of the scale of the issue and options for change.

The Scottish Government does not intend to propose any changes to the Scottish Independence Referendum (Franchise) Bill at this stage. However, we will consider the issue further, along with any views the Committee and others might provide on the principles involved and the practicalities of making provision for this small group of 16 and 17 year olds. Depending on the outcome of this further consideration, amendments could be proposed at Stage 2 or 3 of the Scottish Independence Referendum Bill in the autumn.

Nicola Sturgeon
4 June 2013

CHILDREN OF SERVICE PERSONNEL REGISTERED AS SERVICE VOTERS

Background

1. The arrangements for service personnel to register for, and vote in, the referendum will be the same as for local government and Scottish Parliamentary elections. Service personnel can choose to register in one of three ways (depending on their personal circumstances): as ordinary voters, as service voters (through a service declaration) or as overseas voters. Around one third of those service personnel who are registered to vote in Scotland are registered as service voters (see para 9 below).

2. During Stage 1 evidence, the Committee heard that while the spouses and civil partners of service personnel living outside Scotland could make a service declaration, there is no provision for eligible children of service voters to do likewise. The Committee noted that this is the case at present for all other polls.

3. In paragraph 63 of the Committee’s Stage 1 report, the Committee urged:

“the Scottish Government, in discussion with the UK Government, to explore all possible options for enabling young people to vote if they are of voting age and are only resident outside Scotland because the family has moved to be with a parent serving in the armed forces, and to report on this prior to Stage 2”.

4. During the Stage 1 debate in Parliament on 14 May the Deputy First Minister said:

“I note the Committee’s recommendation on this matter and reassure Parliament that the Government will investigate the possible options for allowing young people who live outside Scotland with a parent who is a service voter to register to vote in the referendum. We are talking about a small group of people, but we will nevertheless consider their position and report to the Committee before Stage 2”.

Current Situation

5. Sections 14 to 16 of the Representation of the People Act 1983 set out the legislative basis for service declarations (including the fact that only those with a service qualification may make such a declaration).

6. Section 14, which was amended in 2005 to extend the right to make a service declaration to the civil partner of a member of the armed forces, provides that the following have a service qualification:

   a) a member of the forces;
   b) an employee in the service of the Crown in a post outside the UK of any prescribed class or description;
   c) an employee of the British Council in a post outside the UK;
   d) the spouse or civil partner of a member of the forces;
   e) the spouse or civil partner of a person mentioned in b) or c) above and residing outside the UK to be with his or her spouse or civil partner.

7. The Scottish Government intends to use the register of voters for local elections in Scotland as the franchise for the Referendum with the addition of 16 and 17 year olds who would otherwise meet the criteria for inclusion on the register. Current (reserved) legislation relating to the local government register (and the register for Westminster and European Parliament elections) does not allow the children (old enough to register) of those who make a service declaration to register as an adjunct to their parent. This is most probably because an 18 year old son or daughter of a service voter is deemed to be an adult who is able to decide for themselves where they want to live. If they choose to live overseas they can register as an overseas elector, if qualified to do so. Individuals registered as overseas electors can vote in Westminster and European Parliament elections, but not in local government and Scottish Parliament elections. They are not eligible to vote in the referendum.

8. Section 1(4) of the Representation of the People Act 1985 allows an overseas elector registration where a young person’s parent was previously registered at a UK address where the young person resided. Under current electoral legislation therefore, the children of service personnel (who are of voting age) are regarded as overseas electors and so may be eligible for the Westminster Parliamentary franchise but not the local government one.

Scale of the Issue / Numbers Involved

9. The Electoral Commission, Cabinet Office and Ministry of Defence do not hold any figures on the number of young people likely to be in this situation for the referendum in 2014. The estimates they can provide on registration are taken from the Armed Forces Continuous Attitude Survey (CAS). According to Cabinet Office advice, that survey for 2012 indicated that 28% of all service personnel who were registered voters were registered using the service declaration, with 71% registered as ordinary voters and 1% as overseas voters (when the MoD gave evidence to the Scottish Affairs Committee on this issue, they put the split between service voters and ordinary voters as accounting for roughly one-third and two-thirds respectively of those registered).

10. The Electoral Commission has investigated with the Ministry of Defence whether it is possible to obtain any statistics on children of service voters who, if of voting age, would be eligible to vote in Scotland (but live outwith Scotland). They confirmed that the CAS, which
is anonymised, does ask about dependents, but does not show where the service voter is registered, or the age of any dependent children. No other databases held by the MoD link individuals and where they are eligible to vote.

11. The closest approximation to a figure is therefore obtained by looking at how many spouses or civil partners are registered as an ‘adjunct’ to the declaration made by their service voter partner, as – given the nature of work involved - this would seem to be the group of service voters most likely to have children residing with them. Information received from the 15 Electoral Registration Officers across Scotland confirms that there are currently 2489 registered service voters on the local government register in Scotland. 10 of those EROs have been able to differentiate between service personnel and their spouses or civil partners. It is clear from the figures they do have that only a very small proportion of people register as an “adjunct” to such declarations by a partner. The attached table shows that, in the areas where EROs were able to provide a breakdown, 1527 were service personnel and 149 were spouses or civil partners. Applying the same percentage to the total number of service voters currently on the register suggests that, of 2489 service declarations, around 242 would have been made by a spouse of a civil partner.

12. As only a proportion of any children living with these parents are likely to be 16 or 17 on 18 September 2014, the potential number of children involved is therefore likely to be very small. The likely range is therefore zero to low hundreds of individuals, with the number likely to be towards the lower end of this range.

**Options for change**

**Possible Amendment to Franchise Bill**

13. The Scottish Government has investigated with the UK Government options for allowing such children to vote in the referendum by amending UK legislation. However, it is clear that, if any change were to be made, it would be simpler, clearer and more appropriate given the purpose (i.e. for the referendum only, and not wider electoral arrangements) to make any changes through Scottish Parliament legislation.

14. Broadly, this could be done by enabling children of service voters who will be aged 16 or 17 on the date of the referendum to register to become an additional category of young voter on the Register of Young Voters. This could be done by creating a new route to the Register of Young Voters which required an Electoral Registration Officer to be satisfied that the young person fell into that age group and was the child of a person who appeared on the local government electoral register by virtue of a service declaration (whether as a member of the forces or as the spouse or civil partner of a member of the forces).

**Scottish Government view**

15. Making changes of this nature to the registration process requires careful consideration. It is therefore important that any proposed change is given that full and detailed consideration by the Scottish Government, the Scottish Parliament and by those who operate the registration systems. Any conclusion needs to be reached on the basis of as complete information as possible.

16. Given that service declarations do not form part of the annual household canvass, such provision would not need to be in place in time for the commencement of that exercise, in October 2013, and so would not need to form part of the Scottish Independence Referendum (Franchise) Bill before it completes its parliamentary passage. The Scottish
Government does not therefore intend to propose any changes to the Bill at this stage. We will consider the issue further, along with any views the Committee and others provide on the principles involved and the practicality of making provision for this small group of 16 and 17 year olds.

17. Although the Scottish Independence Referendum (Franchise) Bill will complete its Parliamentary passage later this month, that would not prevent further Parliamentary consideration of the issue. The Scottish Independence Referendum Bill will still be before the Parliament in the autumn, and amendments could be proposed at Stages 2 or 3 of that Bill to address the issue.
I am writing in response to an issue raised by your Committee in relation to service declarations and the Scottish Referendum. I understand that you have suggested that consideration should be given to extending the entitlement to register via a service declaration to children of service personnel who will be of voting age for the Scottish Independence Referendum (i.e. those aged 16 and over on 18 September 2014). Currently only the spouses and civil partners of those with a service qualification are also entitled to register via a service declaration under UK electoral law.

As your committee is aware, the UK Government extended the service declaration to include the spouse or civil partner of service personnel; there has been no demand for a similar extension to cover the children (of voting age) of service personnel.

As you will be aware, the agreement reached between the UK and Scottish Government on 15 October 2012 provided the Scottish Parliament with the legislative competence to introduce legislation providing for a single question referendum to be held before the end of 2014. Although matters relating to the registration of electors for all UK, Scottish Parliament, local and European elections are reserved to UK Parliament, the Edinburgh Agreement and the section 30 order provided the Scottish Parliament and the Scottish Government with the competence to create the franchise for the independence referendum. This was set out clearly in the Memorandum signed by both Governments:

- The Referendum Bill introduced by the Scottish Government will create a franchise for the referendum. Both governments agree that all those entitled to vote in Scottish Parliamentary and local government elections should be able to vote in the referendum.

- The Scottish Government's consultation on the referendum also set out a proposal for extending the franchise to allow 16- and 17-year-olds to vote in the referendum. It will be for the Scottish Government to decide whether to propose extending the franchise for this referendum and how that should be done. It will be for the Scottish Parliament to approve the referendum franchise, as it would be for any referendum on devolved matters.

- The Scottish Government's decision on what to propose to the Scottish Parliament will be informed by the analysis of responses to its consultation exercise and by practical considerations. The Order does not restrict the extension of the franchise in the case of this referendum.

The Scottish Government have set out the franchise that they wish to see delivered for the referendum in the Scottish Independence Referendum (Franchise) Bill. In this Bill the Scottish Government are able to include a power to make modifications to electoral law for the purposes of the referendum, to replicate or make separate provisions if they consider it necessary.
Therefore, we believe that it should be a matter for the Scottish Government to make specific provision in their franchise Bill to cover this specific category of people; if they wish to do so, such provision would be within the framework of the s.30 Order approved by both the UK and Scottish Parliaments.

I am copying this letter to the Secretary of State for Scotland and the Parliamentary Under-Secretary of State for Scotland.

Chloe Smith MP
Minister for Political and Constitutional Reform
4 June 2013
Scottish Independence Referendum (Franchise) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 6  Schedule 1
Sections 7 and 8  Schedule 2
Sections 9 to 15  Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

Patrick Harvie
Supported by: Alison McInnes

30 In section 2, page 2, line 3, after <enactment> insert <other than section 3 of the 1983 Act>

Patrick Harvie

31 In section 2, page 2, leave out lines 5 and 6

Section 3

Alison McInnes

32 In section 3, page 2, line 8, at beginning insert <Subject to section 3A,>

Patrick Harvie

40 In section 3, page 2, line 8, after <person> insert <who is not the subject of arrangements made by regulations under subsection (2A)>

Alison McInnes

1 In section 3, page 2, line 10, at end insert <, where that sentence is for a term of four years or more.>

Alison McInnes

2 In section 3, page 2, line 10, at end insert <, where that sentence is for a term of more than six months.>

Patrick Harvie

41 In section 3, page 2, line 13, at end insert—
<(2A) The Scottish Ministers must by regulations make arrangements to ensure that convicted persons who are expected to be released from detention in a penal institution before 18 March 2015 are entitled to vote in an independence referendum.

(2B) Regulations under subsection (2A) are subject to the affirmative procedure.>

Patrick Harvie
33 In section 3, page 2, line 23, leave out from <(whether> to end of line 28 and insert <under the 1983 Act or the Political Parties, Elections and Referendums Act 2000,>

Patrick Harvie
34 Leave out section 3

After section 3

Alison McInnes
35 After section 3, insert—

<3A Offenders in prison entitled to vote

(1) A convicted person is entitled to vote in an independence referendum if the person falls within subsection (2) or (3).

(2) A person falls within this subsection if—

(a) the person is detained in a penal institution in pursuance of a sentence for a term of less than four years,

(b) the person will by 18 March 2015 be entitled to be released unconditionally under section 1(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, and

(c) the person is not convicted of a sexual offence within the meaning of section 210A of the Criminal Procedure (Scotland) Act 1995.

(3) A person falls within this subsection if—

(a) the person is serving a short-term custody and community sentence within the meaning of section 4(1) of the Custodial Sentences and Weapons (Scotland) Act 2007,

(b) the person will by 18 March 2015 be entitled to be released on short-term community licence under section 5 of the 2007 Act, and

(c) the person is not convicted of a sexual offence within the meaning of section 210A of the Criminal Procedure (Scotland) Act 1995.>

Schedule 1

Nicola Sturgeon
3 In schedule 1, page 8, line 30, after <canvass> insert <between 1 October 2013 and 10 March 2014>
Nicola Sturgeon
4 In schedule 1, page 8, line 32, leave out <Subsection (1A) is> and insert <Subsections (1A) and (2) are>

Nicola Sturgeon
5 In schedule 1, page 9, line 10, in the second column, at end insert—
   <In each of subsections (2A) and (5)(a), the reference to the 15th October in the year in question is to be read as a reference to the date on which the canvass form was received by the registration officer.>

Nicola Sturgeon
6 In schedule 1, page 15, line 27, leave out <Paragraph (2)(a) is> and insert <In paragraph (2), subparagraphs (a) and (aa) are>

Section 7

Nicola Sturgeon
7 In section 7, page 4, leave out line 14 and insert—
   <( ) meets either of the requirements specified in subsection (2A).

   (2A) 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.>

Nicola Sturgeon
8 In section 7, page 4, line 16, at end insert—
   <( ) In subsection (2A)—

   (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).>
Schedule 2

Nicola Sturgeon

9 In schedule 2, page 18, line 9, at end insert—

"[Address line 1]"

"[Address line 2]"

"[Address line 3]"

"[Address line 4]"

Nicola Sturgeon

10 In schedule 2, page 18, line 11, leave out <(see over the page for more details)>

Nicola Sturgeon

11 In schedule 2, page 18, leave out lines 13 to 17 and insert—

"If there are 15 year olds living at this address who will be 16 by the referendum on 18 September 2014, they should be registered using this form to make sure they can vote in the referendum. Please enter their details in Part 1 below, sign Part 2 and return the form. This is required by law. Please see over the page for more details."

Patricia Ferguson

11A As an amendment to amendment 11, line 2, leave out "will be 16 by the referendum on 18 September 2014" and insert "were born before 19 September 1998"

Nicola Sturgeon

13 In schedule 2, page 18, line 18, leave out "no" and insert "no"

Nicola Sturgeon

12 In schedule 2, page 18, line 18, after "address" insert "who will be 16 by 18 September 2014"

Patricia Ferguson

36 In schedule 2, page 18, line 18, after "address" insert "who were born before 19 September 1998"

Nicola Sturgeon

14 In schedule 2, page 18, line 20, leave out from "This" to end of line 21

Patricia Ferguson

37 In schedule 2, page 18, line 22, leave out from "will" to end of line and insert "were born before 19 September 1998"
Nicola Sturgeon
15 In schedule 2, page 18, line 22, leave out ${[date of referendum]}$ and insert <18 September 2014>

Patricia Ferguson
38 In schedule 2, page 18, line 23, leave out <will be 16 by [date of referendum]> and insert <were born before 19 September 1998>

Nicola Sturgeon
16 In schedule 2, page 18, line 23, leave out ${[date of referendum]}$ and insert <18 September 2014>

Nicola Sturgeon
17 In schedule 2, page 18, line 24, leave out <to register>

Nicola Sturgeon
18 In schedule 2, page 18, line 25, at end insert <Please also cross out and replace any incorrect information shown below.>

Nicola Sturgeon
19 In schedule 2, page 18, leave out lines 26 to 33 and insert—

<table>
<thead>
<tr>
<th>Surname</th>
<th>First name and middle initials</th>
<th>Nationality</th>
<th>Date of birth</th>
<th>Postal vote</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Nicola Sturgeon
20* In schedule 2, page 19, line 6, leave out <E-mail address>

Nicola Sturgeon
21 In schedule 2, page 19, line 6, at end insert—

Patricia Ferguson
39 In schedule 2, page 19, line 13, leave out <, but will be 16 by the referendum on [date of referendum]> and insert <and who were born before 19 September 1998>
Nicola Sturgeon

22 In schedule 2, page 19, line 13, leave out <[date of referendum]> and insert <18 September 2014>

Nicola Sturgeon

23 In schedule 2, page 19, line 19, leave out <[date of referendum]> and insert <18 September 2014>

Nicola Sturgeon

24 In schedule 2, page 19, line 20, leave out <[date]> and insert <18 September>

Nicola Sturgeon

25 In schedule 2, page 19, line 33, leave out <DD/MM/YYYY> and insert <DD/MM/YY>

Nicola Sturgeon

26 In schedule 2, page 19, line 34, leave out <05/12/1997> and insert <05/12/97>

Nicola Sturgeon

27 In schedule 2, page 20, line 8, leave out <a mailshot> and insert <information>

Section 9

Nicola Sturgeon

28 In section 9, page 4, line 30, at end insert—

<( ) The register, or an entry in it, may be disclosed to a person so far as necessary for the purposes of a criminal investigation or criminal proceedings relating to an offence (or alleged or suspected offence) under—

(a) an applied enactment, or

(b) the Act of the Scottish Parliament by virtue of which an independence referendum is held.>

Section 13

Nicola Sturgeon

29 In section 13, page 6, line 13, leave out <December> and insert <October>
Scottish Independence Referendum (Franchise) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

**Eligibility of convicted prisoners to vote**
30, 31, 32, 40, 1, 2, 41, 33, 34, 35

**Register of young voters: conduct of canvass**
3, 4, 5, 29

**Register of young voters: supply of copies of notices of registration**
6

**Declaration of local connection: additional ground for certain young people**
7, 8

**Register of young voters: canvass form**
9, 10, 11, 11A, 13, 12, 36, 14, 37, 15, 38, 16, 17, 18, 19, 20, 21, 39, 22, 23, 24, 25, 26, 27

*Notes on amendments in this group*
Amendment 37 pre-empts amendment 15
Amendment 38 pre-empts amendment 16
Amendment 39 pre-empts amendment 22

**Register of young voters: disclosure for purposes of criminal investigations and proceedings**
28
Present:
Bruce Crawford (Convener)   Annabelle Ewing
Linda Fabiani   Patricia Ferguson
Rob Gibson   Annabel Goldie
Patrick Harvie   James Kelly (Deputy Convener)
Stewart Maxwell   Stuart McMillan
Tavish Scott

Also present: Alison McInnes and Nicola Sturgeon, Deputy First Minister (Government strategy and the Constitution)

Scottish Independence Referendum (Franchise) Bill: The Committee considered the Bill at Stage 2.

In relation to the first group of amendments (prisoner voting), James Kelly declared an interest as the brother of Tony Kelly, a practising solicitor and sole proprietor of the firm Taylor & Kelly.

The following amendments were agreed to (without division): 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29.

The following amendments were disagreed to (by division)—
   30 (For 2, Against 9, Abstentions 0)
   31 (For 1, Against 10, Abstentions 0)
   32 (For 2, Against 9, Abstentions 0)
   40 (For 1, Against 10, Abstentions 0)
   1 (For 2, Against 9, Abstentions 0)
   2 (For 2, Against 9, Abstentions 0)
   33 (For 1, Against 10, Abstentions 0)
   35 (For 2, Against 9, Abstentions 0)
   11A (For 2, Against 9, Abstentions 0).

The following amendments were not moved: 41, 34, 36, 37, 38 and 39.

The following provisions were agreed to without amendment: sections 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 14 and 15 and the long title.

The following provisions were agreed to as amended: schedule 1, section 7, schedule 2 and sections 9 and 13.

The Committee completed Stage 2 consideration of the Bill.
Scottish Parliament
Referendum (Scotland) Bill Committee
Thursday 6 June 2013

[The Convener opened the meeting at 09:30]

Scottish Independence Referendum (Franchise) Bill: Stage 2

The Convener (Bruce Crawford): Good morning, colleagues, and welcome to the 16th meeting of the Referendum (Scotland) Bill Committee. I give a very warm welcome to the Deputy First Minister.

I remind everybody to switch off their phones to ensure that they do not ring at an inappropriate time.

The only item on the agenda is stage 2 of the Scottish Independence Referendum (Franchise) Bill. I welcome to the committee Alison McInnes, who is here to move a couple of amendments.

I will go through some of the stage 2 process. Everyone should have with them a copy of the bill as introduced, the marshalled list of amendments and the groupings of amendments, which set out the amendments in the order in which they will be debated.

There will be one debate on each group of amendments. I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will call the Deputy First Minister to speak to every group. Members who have not lodged amendments in the group but who wish to speak should indicate to me in the usual way that they wish to do so.

The debate on the group will be concluded by my inviting the member who moved the first amendment in the group to wind up and indicate whether they wish to press or withdraw the amendment. There must be a division on the amendment. Only committee members are allowed to vote in any division, and it is important that members keep their hands raised until the clerks have the chance to record all the names.

As well as disposing of amendments, the committee is required to consider formally each section of and schedule to the bill and the long title. I will therefore put a question on each at the appropriate time.

Section 1 agreed to.

Section 2—Those entitled to vote in an independence referendum

The Convener: Amendment 30, in the name of Patrick Harvie, is grouped with amendments 31, 32, 1, 2, 41 and 33 to 35.

Patrick Harvie (Glasgow) (Green): Before we get into the details of individual amendments, I will say something about the issue in general.

It is understandable that the legal arguments about whether the European convention on human rights provisions require the Scottish Government or the Scottish Parliament to extend to prisoners the right to vote in the referendum and the question whether prisoners voting would have any impact on the referendum at all have sometimes been drawn into the debate about prisoners voting. I suspect that the matter will go to court if the Government continues to resist amendments in the area, and regret that it seems likely that we will have months of legal process instead of a couple of weeks of unfortunate headlines in the newspapers about prisoners getting the right to vote. That is a shame.

Having said that, I think that the arguments in favour of repealing the blanket ban on prisoners voting go beyond the legalities of the ECHR. I think that most members know that I am not a religious person, but the Church of Scotland, the Quakers and others have put forward compelling arguments about the rightness of the issue. They argue that the purpose of prisons and the criminal justice system is to repair the broken relationship between the offender and society, and that that should be seen in the context of rehabilitation.

On the radio this morning, Patricia Ferguson and I discussed rehabilitation and prisons and the fact that we can always do a great deal better than we are doing, particularly in relation to short sentences. I believe that prisoners who have offended and have a custodial sentence should be given the clear message that they are a part of society and that the purpose of their spell in prison is to remind them of that fact and make them clear about the behaviour that is expected of them as a member of society. Participation in the democratic process is consistent with that; it is not a massive part of it, but it is consistent with it.

I turn to the specific amendments. The Liberal Democrats and I seem to have taken a pretty similar approach. We recognise that the weather is against us, so we are offering the widest range of options to be debated. I hope that the Government is willing to respond to the specific arguments on
each option, rather than simply pick apart the amendments at a technical level.

The first option that I propose, which I describe as the full franchise option, is contained in amendments 30, 31 and 34. The amendments would remove section 3; in effect, they would ensure that all convicted prisoners would have the right to vote in the referendum. One quirk of that option is that the committee, should it be so minded, would be perfectly entitled to support amendments 31 and 34 but not amendment 30. The effect would be that, if the United Kingdom Parliament was to change the legislation on the electoral franchise, that would have an effect in Scotland, whereas at present the bill says that Scotland would retain the more restrictive franchise even if the UK electoral franchise was changed. That is an option within the full franchise option.

I describe amendments 40 and 41 as the pre-release franchise. The amendments would require the Government to introduce measures to ensure that prisoners who are coming towards the end of their sentence would regain the right to vote at an appropriate point—I suggest that that would be six months before the end of their sentence. I recognise that it might be possible to find technical flaws with that. For example, it might be difficult to identify all the prisoners who would be entitled to vote on a particular date. However, I have floated the idea to see whether the Government can respond to the principle behind it, which is the idea that prisoners who are coming to the end of their sentence should regain the right to vote as part of their transition back into society. I hope that the Government will be able to respond to the argument or principle behind those amendments.

Finally, my amendment 33 provides another option, which I gather one or two other European countries have taken. They do not have a blanket ban and are compliant with the ECHR in relation to elections, but they specify that electoral offences or offences involving abuse of the democratic process result in the loss of the right to participate in that process. Therefore, I have suggested that the ban should apply to those who commit offences under the Representation of the People Act 1983 or the Political Parties, Elections and Referendums Act 2000.

Alison McInnes’s amendments take a slightly different approach, which we discussed at stage 1 and which relates to length of sentence. It is entirely appropriate to discuss that option. Length of sentence or, alternatively, type of offence might be used to determine an appropriate cut-off point.

I find it odd that people still argue that prison should be the single criterion on which the loss of the franchise is based. We use prison a lot less than in the past. I am a supporter of some of the measures that the Scottish Government has taken to increase the use of community sentences and to ensure that we use prison only when it is genuinely required. It seems odd that, just a few years ago, somebody could have committed an offence, been given a prison sentence and so lost the right to vote, whereas, if they committed the same offence today, they would not lose that right. The use of prison as the only criterion for the loss of the right to vote throws up many anomalies so, in many ways, it would be better simply to abandon the principle altogether.

I move amendment 30.

Alison McInnes (North East Scotland) (LD): My amendments 32, 1, 2 and 35 are variations on the theme that Patrick Harvie has set out, and would extend the franchise in the referendum to certain categories of prisoner. I appreciate that many members will have reservations about allowing prisoners a vote, whether in the independence referendum or in elections. The bill as it stands bars all prisoners from voting. Although we send people to prison as a punishment, we measure success by the way in which offenders re-enter the community. The primary aim of prison is rehabilitation and we will achieve results only if we give offenders the tools to help them make a meaningful contribution to the community when they are released. That means ensuring that they are engaged with society and that they are prepared for the responsibilities of citizenship.

Allowing some prisoners a say in the decision that will fundamentally shape the future of the country would send a powerful message that we are serious about giving them a role in society upon release. On the other hand, barring prisoners from participating risks isolating them even further.

Members are, of course, aware of the continuing discussions at Westminster regarding the ruling by the European Court of Human Rights that the existing blanket ban violates prisoners’ human rights. As the Government has pointed out, that ruling does not apply directly to the referendum, but falling back on that argument is weak. It is a way of avoiding an important issue. As Patrick Harvie mentioned, the UK is already out of step with much of Europe. The Council of Europe’s Commissioner for Human Rights is on record as urging the Scottish Parliament to revise the bill.

The best place to start that discussion is with the issue of short-term prisoners. As the Howard League for Penal Reform rightly points out, they represent a particular anomaly.

In 2011-12, a little more than 6,000 people in Scotland were jailed for six months or less—that figure is too high, but that is a debate for another day. The majority of those convictions were for
offences such as shoplifting, breach of the peace and crimes against public justice such as resisting arrest. No one is condoning those offences and saying that those crimes should not be punished, but to deny a shoplifter a say in the future of the country seems a disproportionate punishment—all the more so when that will apply to those who are sentenced in the summer whereas those caught in the spring will still get their vote.

I have presented the committee with three alternatives. Amendment 1 is my first choice, so to speak. The law as it stands in Scotland makes a distinction between short-term and long-term sentences—the dividing line is four years. Amendment 1 would give the vote to all prisoners who have been sentenced to a term of less than four years.

Offenders on such sentences have committed a wide range of crimes, but sentencing judges have made a determination that, within our laws, means that they are considered short-term prisoners. If we are serious about holding Scotland up as a progressive country when it comes to prisoner rehabilitation, that is the best place to start the debate.

The second option that I propose—amendment 2—is a direct alternative to amendment 1. It would specifically target offenders on very short-term sentences by giving the vote to any prisoners on sentences of six months or less.

Opening up the vote to all short-term prisoners would draw in a handful of offenders who are in prison for more serious crimes, and I acknowledge that some members who may be amenable to the general principle of opening up the vote to some prisoners would be uncomfortable with that. Amendment 2 would likely grant the vote to only about 400 prisoners. It would address some of the anomalies that relate to the date of sentencing but, primarily, would send the message that the Parliament takes seriously the issue of prisoner voting.

The third and final option is in the shape of amendments 32 and 35, which go hand in hand. Those amendments would grant the vote to all prisoners on short-term sentences who are within six months of being unconditionally released, with the exception of those convicted of a sexual offence.

Proposed new section 3A in amendment 35 is in two parts. Subsection (2) reflects the law as it currently stands, and subsection (3) reflects the law as it will be if provisions in the Custodial Sentences and Weapons (Scotland) Act 2007 are enacted between now and the date of the referendum. In practice, those two subsections mirror each other and would mean that all prisoners serving a sentence of six months or less, and other prisoners on short-term sentences who are within six months of the halfway point of their sentence, would be granted the vote.

Amendment 35, if it were agreed to, would take the approach that returning the vote to prisoners is an important step in the rehabilitation process. As prisoners approach release, we begin the process of reintegration into the community by returning some of their rights and, indeed, responsibilities.

I have added my support to Patrick Harvie’s amendment 30, which seeks to address an anomaly that his and my amendments could create in relation to the Representation of the People Act 1983.

Depending on which, if any, of my amendments the committee accepts, I acknowledge in advance to the Deputy First Minister the potential need for consequential amendments. I would be happy to work with her on that if that need arises.

I also note the uncertainty regarding the enactment of the 2007 act in relation to amendment 35 and would be open to further discussions on that amendment before stage 3 if the cabinet secretary were minded to take that approach.

James Kelly (Rutherglen) (Lab): I draw members’ attention to my entry in the register of members’ interests. My brother is Tony Kelly, a lawyer and the sole proprietor of Taylor & Kelly, a legal firm based in Coatbridge.

09:45
Scottish Labour does not support any of the amendments that have been lodged by the Greens and the Liberal Democrats. As Patrick Harvie and Alison McInnes outlined, a range of options are being tested.

I listened to the comments on the full franchise, which would give all prisoners a vote in the referendum. It is important to reflect that there is an element of punishment for those who are committed to serve prison sentences, particularly for serious offences such as murder. Those people would be included in the vote if the full franchise was granted. People are sent to prison because they have committed serious crimes. They should use that period to reflect so that they can rehabilitate and then make a proper contribution to society and vote in elections.

In amendment 41, Patrick Harvie proposes that prisoners who reach the final six months of their sentence be granted a vote in the referendum in order to encourage rehabilitation. Again, that would include those who were convicted of serious offences, including murder. We need to reflect on the impact that that would have on victims’ families. It is right that people serve their sentence...
and are released at the appropriate time, but in the case of serious offences, it causes difficulty for victims when people are released back into the community, and that would be compounded by granting such people a vote in the referendum.

Alison McInnes proposes granting people on lower tariffs a vote. What is missing in this debate is the voice of victims of crime. Any MSP who is close to what is going on in their constituency, particularly if they have an urban constituency, will know that crime such as antisocial behaviour may be termed “low level” in debates in the Parliament, but it can have a really stressful impact on families, individuals and communities. It is easy to quote the higher-profile examples, but let us look at some of the low-level crimes that are committed, the perpetrators of which would be given a vote in the referendum under Alison McInnes’s proposal.

I see examples in my constituency, such as a young woman whose door is kicked down and who is stalked to her place of work; a young family whose car is stolen and then trashed; or a pensioner whose house is ransacked and burgled. Is it right for the offenders to have a vote in the referendum? I think—

Patrick Harvie: Will the member take an intervention?

James Kelly: Sure.

The Convener: It is at my discretion, but I will allow an intervention on this occasion.

Patrick Harvie: I am grateful. Any of the offenders that James Kelly talked about could be serving a community sentence rather than a custodial sentence. Is it his view that the type of offence should be the criterion on which loss of the vote is based, or should it be based on where the sentence is served?

James Kelly: Of course different types of offence can result in different types of sentence, but that is because the court needs to take into account previous offences. The cumulative effect might well result in someone having to serve a period in prison. If so, they should not be granted a vote in the referendum.

If we agreed to the amendments, we would do a disservice to the victims of crime. People have said that how we treat prisoners and whether we give them a vote in the referendum is a test of the sort of country that we live in. I think that it is a test of how we treat the victims of crime. We would send out the wrong signal if we agreed to the amendments.

There is a duty on the Government to produce competent and robust legislation. To date, the argument of the Deputy First Minister—who will speak later—has lacked detail. Questions still remain, and the Government and the Deputy First Minister must advance their own argument. To date they have submitted and supported the Law Society of Scotland’s arguments and those in Stephen Tierney’s paper. However, the Law Society says that the legislation “appears to be ... compliant” and Stephen Tierney acknowledges that “question-marks” remain, so it is not enough for the Deputy First Minister to hide behind that legal advice. She said that she does not want to publish the legal advice. I acknowledge that position, but she needs to advance some legal arguments. It is not enough to hide behind others’ arguments.

We reject the amendments that have been lodged by the Liberal Democrats and the Greens and we call on the Government to provide more legal detail as to why the bill is compliant and would survive a challenge in the courts.

Stewart Maxwell (West Scotland) (SNP): I will start where James Kelly left off. He was doing rather well until he started to have what I think was a rather undignified dig at the Government, the Law Society and the legal experts who have given evidence to the committee. The Government is not hiding behind anything. In fact, it is clear that the ECHR does not cover the referendum. That is clear. We are not being weak if we agree with that; we are following the law. James Kelly has made a strange argument.

I accept James Kelly’s earlier points. I agree with much that he said on Patrick Harvie’s amendments 30, 31 and 34, on the full franchise. It would be unacceptable to the vast majority of the population if people who had committed extremely serious crimes, including murder, were seen to be entitled to part of the franchise. That position—that people who have committed such heinous crimes should be entitled to take part in the electoral process to decide who will rule on those laws—would be publicly unacceptable and rather illogical.

The arguments regarding amendments 40 and 41 present an interesting idea, which is to allow prisoners to regain the right to vote towards the end of their sentence. However, I think—again—that the rules should apply for all the time that a prisoner is in custody and should not somehow be broken at some point in their sentence. A decision about at what point that should happen would be rather arbitrary. Six months has been suggested, but I do not see why it should be six months rather than three months, one year or whatever. There is no logic to that argument, but the argument that if someone is in custody, they lose that particular right, holds strong.

Amendment 33 also presents an interesting idea: that those who commit electoral offences would lose the right to vote but those who commit
murder, rape, domestic violence or any other crime you want to mention—I will not list them all—would regain the right to vote. I find that, too, to be a rather illogical and bizarre position to hold. The two general purposes of imprisonment are punishment and rehabilitation; I accept some of the Greens’ and Liberal Democrats’ arguments on that.

There is a principle. Prison is not just about detention and the removal of liberty; it is also about removal of a number of rights of access to parts of society. There are restrictions other than just being held in a penal establishment. Given that prisoners lose numerous rights and cannot do lots of things, it is not illogical that prisoners should also lose the right to vote. That seems to be entirely reasonable.

I was interested by Alison McInnes’s argument on amendment 1, in which she said that the judiciary takes everything into account, makes a judgment and decides on a long or short sentence. She is right in that argument; judges and sheriffs do make judgments. However, judges and sheriffs are fully aware of the implications of giving someone a custodial sentence and sending them to prison.

I prefer to leave it to judges and sheriffs to decide—given the circumstances and context of the case, the individual’s background, and their previous history of offending—whether a custodial or non-custodial sentence is appropriate. They know that if they give the accused a custodial sentence, the individual will lose not only their liberty but a number of rights, including the right to vote. I agree with the argument that judges and sheriffs should be allowed to make a judgment, but that judgment should be about not only whether to give a short-term or long-term sentence, but whether a person should be in custody, with all the implications that follow from that.

Finally, I know that my colleagues across the table will not agree with this argument, but the bottom line is that if a person wants to retain their vote in a referendum, they should not commit crime. It is simple: they should not steal people’s cars, create violence in the streets or do other things that will end up in their going to prison. Individuals make that choice, and if they do so they must suffer the consequences. That is the view of society and it is certainly a view that I support.

Annabel Goldie (West Scotland) (Con): I thank both Patrick Harvie and Alison McInnes for the eloquence and lucidity of the arguments that they presented, which were a very helpful exposition of the position that they wish to advance. My position is that I have a fundamental disagreement in principle with what both Patrick Harvie and Alison McInnes propose, which is why I will not deal with the detailed aspects of the arguments that they presented.

My view is clear. It seems to me that the loss of franchise does not begin in prison; it begins in court. It begins in the court because a judge has decided that a convicted accused should have their liberty removed, and as a consequence serve a term of imprisonment. The court does not impose prison sentences in ignorance of the consequences; it is very clear about the consequences. The consequences are loss of liberty, which involves removal from the normal aspects of social engagement with family and friends and loss of the ability to participate in everyday life. Another consequence is loss of the franchise—the vote. I do not think that any prisoner is either unaware of that or surprised by it.

Although we happen to be discussing the issue in the context of the Scottish Independence Referendum (Franchise) Bill, I take the view that victims would find it anomalous and unacceptable that the experience to which they have been subjected by an individual, culminating in the imposition of a prison sentence, should be reflected by the granting of a vote to that individual.

I have not addressed the specific aspects of what Alison McInnes and Patrick Harvie adduced in support of their proposition, because to me it is a fundamental matter of principle. If a court has deemed it appropriate to take away the liberty of a convicted criminal, a clear consequence of that is loss of the franchise for the duration of the prison sentence. That is why I reject the amendments and am unable to support the proposition.

The Convener: No other members want to contribute, so I move on to the Deputy First Minister before I ask Patrick Harvie to wind-up.

The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon): Thank you, convener.

It is worth observing at the outset that it is perhaps a mark of the overwhelming consensus in favour of extending the franchise to 16 and 17-year-olds in the referendum, which is of course the main purpose of the bill, that the proposal has proved to be completely uncontroversial—[Interruption.] I am sorry; I mean that with the honourable exceptions of Ms Goldie and her colleagues, that proposal has turned out to be uncontroversial, while the controversy is about the matter that we are debating, which is whether prisoners should have the right to vote. The balance of opinion appears to lie very strongly with the position that is set out in the bill.
The amendments that have been lodged by Alison McInnes and Patrick Harvie seek to change the provision that will prevent a convicted person from voting in the referendum while he or she is detained in a penal institution. The position in the bill is that which currently applies in all elections throughout the UK: a person who is in prison serving the custodial part of a sentence is not entitled to vote.

10:00

The amendments seek to change the current position in various ways. I appreciate that the amendments put forward a variety of options, such as the universal franchise of people detained in prison, and the enfranchising of people serving sentences of less than six months or people nearing the end of their sentences. However, all the amendments would have the intended effect of allowing some convicted prisoners who are still serving their sentences to vote, so the issues of principle—while perhaps not identical—are broadly the same in respect of all the amendments in the group.

As Annabel Goldie did, I thank Alison McInnes and Patrick Harvie for lodging the amendments. It is right that the issue be aired fully as the bill progresses through Parliament. As I have said previously, I have given, and will continue to give, the issue careful thought at all stages of the bill. I am not yet persuaded of the case that is being made, although I am sure that it is an issue that we will continue to debate until the bill reaches its final stage.

The Government does not believe that convicted prisoners should be able to vote while they are detained in custody. We hold that view for reasons of principle, reasons of law and reasons of consistency.

I will deal first with the issue of principle. I make no apology for saying that we believe that there must be a balance between rights and responsibilities in society. Patrick Harvie is right to say that we use prison less. However, if a judge, after he or she has heard all the facts of the case, considers that the circumstances of the case, the seriousness of the crime or the previous convictions of the offender warrant a custodial sentence, it is right that the individual should, as a result, lose rights that others who have not committed a crime, whose crime does not merit a custodial sentence or who have already served the custodial part of the sentence can enjoy. For the time during which a person is serving a sentence in prison, the right to vote is one of the rights that he or she should lose. When a person re-enters society, they regain that right to vote, along with other rights. That is the issue of principle. I agree with many of the comments by other members on the matter.

On the law, I have said to Parliament previously that ECHR case law in this area does not apply to the right to vote in a referendum. I do not think that that is contested by anyone; I am not even sure that it is contested by Patrick Harvie and Alison McInnes. A legal challenge to any Government policy is always possible, but we do not believe that a challenge to this policy would be successful. The committee heard that from Professor Tierney and from the Law Society of Scotland, both of which share the Government’s view.

In response to James Kelly, the bill has gone through the normal processes and procedures that any bill goes through and has a certificate of legislative competence as a result of those processes. James Kelly made an excellent contribution, but for the point on legal advice.

It seems that Labour is using a bit of a device here. I observe that the position of Scottish Labour is as follows: it agrees with the Government on the issue but cannot quite bring itself to say, without any caveats, that it does so so it is turning to the legal advice point to provide some proof that it does not completely agree with the Government and that there is still a point of distinction. The better position would be to accept that we agree with each other and that we have come to the same position on the point of principle and on consideration of the legal position. I am sure that that is how the vote will pan out. However, I have given our position on the law.

Finally, on consistency, Patrick Harvie made a number of reasonable points in the stage 1 debate. However, I reiterate that the position as set out in the bill—not just on this issue, but generally—seeks to ensure that the current arrangements remain in place for the referendum, with one exception, that exception being the extension of the vote to 16 and 17-year-olds. Prisoners do not currently have the right to vote in elections and will not have the right to vote in the referendum if the amendments are not agreed to. I appreciate that the UK Government might change that position in respect of elections, but the fact of the matter is that right now, as we are considering the bill, prisoners do not have the right to vote in elections.

Detailed arrangements for running the referendum need to be in place well before the vote next September—I think that that applies to the franchise as much as, if not more than, it applies to other areas of the running of the referendum. It is right that the franchise for the referendum be settled soon, with the passage of this bill. That will be to the benefit of voters, campaigners and electoral administrators. It is right that we take that position now, based on the
current position, which will lead us to a consistent outcome.

For those reasons—the combination of law, principle and consistency—I oppose the amendments. I am sure that this is not the last time we will have the debate as the bill proceeds through Parliament, and I respect the views that have been put forward, and will continue to listen to the arguments, but the Government’s position remains as it is set out in the bill. I ask committee members to oppose the amendments.

Patrick Harvie: I thank all those who have contributed to the debate. The Deputy First Minister began by noting the breadth of support for votes at 16, and I am comfortable in saying that we agree with the Government on that. As the Deputy First Minister pointed out, the balance of opinion is very clearly against my amendments. To be honest, I was not expecting anything but that. However, I am glad that we have been able to give the issue an airing, because it deserves one.

Several arguments have been made relating to the purpose or purposes of prison. As I understand it, there are three: punishment, public protection and rehabilitation. I think James Kelly was first to argue that loss of the right to vote is part of the punishment when a custodial sentence is given. Is that really the case? Do we really think that offenders who are sent to prison after committing some of the severe offences that James Kelly mentioned feel more severely punished because they cannot vote? I really do not think that it has that effect, and I would question whether anyone genuinely considers loss of the right to vote as being a serious part of the punishment that prison represents.

Does loss of the right to vote provide an element of public protection? I cannot see that it does.

That leaves us with the final purpose of prison: rehabilitation, which I regard as being the most important purpose of prison and which, as I mentioned earlier, the Church of Scotland spoke about in terms of mending the broken relationship between the offender and society. In that context, I can see only arguments in favour of allowing prisoners the right to vote.

James Kelly also used various examples of lower-level offences, which he rightly acknowledged can have a high-level impact on people, such as antisocial behaviour offences. It struck me that the logical extension of that argument would be to remove the franchise from offenders who commit those offences, but are given non-custodial sentences, or even to remove from those who are subject to preventative orders. It would be dangerous if we were to use how we feel towards those who have broken society’s rules as the basis of decisions about who should have the right to vote.

Stewart Maxwell used a similar argument, which boiled down to the simple phrase, “If you want the right to vote, don’t commit a crime.” That is a simplistic approach that should be balanced against the equally powerful argument that an offender in prison, serving a sentence, is still a human being, is still a part of society and is subject to the decisions that a Government makes or to the decisions that the population makes in a referendum. I think that there is a powerful argument in principle that the franchise should extend to all who are affected by the decisions that are made through the democratic process.

Stewart Maxwell also said that the Government is following the law because the ECHR does not directly relate to referendums. The ECHR provisions directly relate to elections. They do not prevent the Government from making a comparable decision in relation to a referendum, so there is no law to follow. If Stuart Maxwell is correct that the ECHR does not apply to referendums, we have a choice that we are free to make.

In my view, the principled argument in relation to ECHR compliance goes way beyond whether it directly applies or whether it compels us, because this Government hopes, as I do, that Scotland—after the referendum that we are about to hold—will make decisions including incorporating ECHR into a written constitution. The Government has made that commitment publicly, on the record, and I strongly support the idea that we embed human rights legislation into documents that embody—that constitute—the new independent Scotland.

We will do that after the referendum or perhaps, if we do not get the referendum result that the Deputy First Minister and I want, at some other stage of devolution. There might be another 20 years of disappointment before it happens, but if at some point we get devolved competence over the electoral franchise, we will still be faced with the question. It seems bizarre to support ECHR—and therefore to support an end to the blanket ban on prisoners voting in elections—but to begin a referendum process with a franchise that is not compatible with the position that we wish to take in relation to elections.

There is a principled argument in favour of compliance with the spirit of ECHR, irrespective of whether it would be applicable technically. On that basis, I press amendment 30.

The Convener: The question is, that amendment 30 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.
The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 30 disagreed to.

The Convener: The question is, that amendment 31 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Amendment 31—[Patrick Harvie].

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 31 disagreed to.

Section 2 agreed to.

Amendment 32 moved—[Alison McInnes].

The Convener: The question is, that amendment 32 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Amendment 32 disagreed to.

Amendment 40 moved—[Patrick Harvie].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Amendment 40 disagreed to.

Amendment 1 moved—[Alison McInnes].

The Convener: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Amendment 1 disagreed to.

Amendment 2 moved—[Alison McInnes].

The Convener: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.
The Convener: There will be a division.

For
Harvie, Patrick (Glasgow) (Green)
Scott, Tavish (Shetland Islands) (LD)

Against
Crawford, Bruce (Stirling) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Maxwell, Stewart (West Scotland) (SNP)
McMillan, Stuart (West Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 2 disagreed to.
Amendment 41 not moved.

10:15
Amendment 33 moved—[Patrick Harvie].

The Convener: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Harvie, Patrick (Glasgow) (Green)

Against
Crawford, Bruce (Stirling) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Kelly, James (Rutherglen) (Lab)
Maxwell, Stewart (West Scotland) (SNP)
McMillan, Stuart (West Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 35 disagreed to.
Sections 4 to 6 agreed to.

Schedule 1—Application of enactments

The Convener: Amendment 3, in the name of the Deputy First Minister, is grouped with amendments 4, 5 and 29.

Nicola Sturgeon: Amendments 3, 4, 5 and 29 arise directly from requests from electoral registration officers for us to set out in legislation that the canvass period for the register of young voters should be the same as that for the local government register.

Specifically, EROs requested that the bill should specify the date of the end of the canvass period for the register of young voters, and that that should be 10 March 2014, in line with the end of the canvass period for and publication of the local government register. Although the register of young voters will not, of course, be published, EROs advised us that it was important for their purposes to have clarity in the bill about when the canvass period for young voters ends and rolling registration begins. As we now know, the start date for local government register canvass activity in Scotland will be 1 October 2013. Amendment 3 sets an identical canvass period of 1 October 2013 to 10 March 2014 for the register of young voters.

Amendments 4 and 5 mirror, and take into account for the young voters register, the local government register canvass arrangements, which provide that the date of application to that register will be the date on which the canvass form is received by the ERO, and will not be deemed to be 15 October as under previous canvass arrangements.

EROs also requested that section 13(2), which prevents any application for registration in the young voters register from being made before 1 December 2013, should be amended to reflect the earlier canvass start date. As the committee knows, the date in the bill was set out before the date of the referendum had been confirmed, and before the full details of the United Kingdom Government’s 2013-14 canvass plans were known. In line with what EROs have requested,
amendment 29 provides that applications for registration in the young voters register can be received from 1 October onwards.

These changes will fully align the canvass period for the register of young voters with that for the local government register. They are sensible changes that take account of requests from stakeholders, and I commend them to the committee.

I move amendment 3.

Amendment 3 agreed to.

Amendments 4 and 5 moved—[Nicola Sturgeon]—and agreed to.

The Convener: Amendment 6, in the name of the Deputy First Minister, is in a group on its own.

Nicola Sturgeon: Amendment 6 relates to the register of young voters and the supply of notices in connection with registration. As the committee is aware, the bill has been carefully drafted to take account of the need to protect the information that is collected on young people.

Amendment 6 reflects the modifications that have already been applied in part 3 of schedule 1. It is a technical amendment that will remove an unnecessary reference. The subparagraph to which the amendment relates suggests that an ERO must supply copies of certain notices in accordance with procedures in particular regulations but, as the bill does not apply those procedures, the reference is simply unnecessary and could be confusing to readers of the bill. The amendment seeks to adapt the modifications that have already been applied in the bill to remove the reference, in line with our general approach to the treatment of information that is contained in the register of young voters. As I said, it is a straightforward technical amendment.

I move amendment 6.

The Convener: As no other member wishes to speak, I presume that the Deputy First Minister waives the right to wind up.

Nicola Sturgeon: Yes.

Amendment 6 agreed to.

Schedule 1, as amended, agreed to.

Section 7—Declaration of local connection: additional ground for young people

The Convener: Amendment 7, in the name of the Deputy First Minister, is grouped with amendment 8.

Nicola Sturgeon: Section 7 currently allows any person who is under the age of 17 and who does not wish to disclose the address at which they are resident to register using an address in Scotland at which they have previously resided. They can do that by making a declaration of local connection. Similar provisions for older voters already exist in electoral legislation, but the circumstances in which such a declaration could be used are fairly narrowly drawn.

The Scottish Government's general approach to the bill and the policy that underpins it has been to replicate current registration practice for the purposes of the young voters register as far as possible, while balancing that with the need to treat data on young people sensitively and recognising that they might have particular needs.

As the policy memorandum and explanatory notes that accompany the bill make clear, the additional ground for making a declaration of local connection that is contained in section 7 is intended to be used by vulnerable young people who are applying to the register of young voters—for example, those young people for whom the disclosure of their address even to a very limited group of people could pose a risk. Amendments 7 and 8 put beyond doubt the purpose of the provision, which is to protect particularly vulnerable young people, by setting out, in broad terms, the circumstances in which such young people will be entitled to make such a declaration.

As amendments 7 and 8 make clear, the two groups of young people who will be able to utilise this facility are young people who are being looked after by a local authority and those who are kept in secure accommodation, mainly in care situations. The additional ground for a declaration of local connection is designed to offer protection for particular groups of young people in particular circumstances. A young person in such a situation would be entitled to register by giving the ERO an address other than the one at which they were currently residing, as long as they previously resided at that address and it was in Scotland. They will also be able to give a correspondence address—for example, that of the local authority—or to collect correspondence from their ERO's office. That will avoid their current address being shown on the register of young voters. In short, it was felt that, as currently drafted, the relevant provision might be too wide. Therefore, amendments 7 and 8 seek to narrow it to ensure that it can fulfil its original intention.

Of course, it is possible that, in certain circumstances, young people could have other reasons for wanting to register without disclosing their address. I know that the Commissioner for Children and Young People in Scotland has recently suggested that those young people who are fleeing domestic abuse, whether with a parent or not, are one such example. I should stress that young people in that situation and others who are in different circumstances will still be eligible to
apply to register to vote completely anonymously, as some electors on the local government register are already entitled to do. That would mean that neither their name nor their address would appear on the register of young voters. The process of anonymous registration is well established and, depending on their circumstances, is available to any young person and, indeed, their parent. It is a different process from the declaration of local connection, but it provides even stronger protection.

I hope that that gives some clarity to the committee, but I am also happy to commit to discussing matters with the commissioner before we reach stage 3, so that we can assure him that all appropriate circumstances are being taken account of.

I move amendment 7.

Stewart Maxwell: I very much welcome what the Deputy First Minister said towards the end of her comments, particularly on amendment 7. At stage 1, when the commissioner was giving evidence alongside Dr Ken Macdonald, I raised the issue of young people who are in the unfortunate situation of fleeing domestic violence. Both seemed very comfortable with the bill as drafted and the commissioner has since contacted me, asking for clarification on amendment 7. You have said that amendment 7 effectively narrows the scope to children who are looked after by a local authority or are being kept in secure accommodation. That is very clear, but the question is whether it is reasonable for young people to go through the other process that you mentioned—the anonymous registration process under section 9B of the Representation of the People Act 1983 and subsequent regulations. It has been suggested that that process is particularly onerous and would result in a clear differentiation between children who are looked after or who are in secure accommodation and those who are, for example, fleeing domestic violence. Surely we want those children to have the opportunity to vote in the referendum and for the process to be as simple as possible for them.

I take on board the cabinet secretary’s comments about contacting the commissioner before stage 3 and very much look forward to hearing the outcome of those discussions.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): I share Mr Maxwell’s concerns in this area. When the committee highlighted this issue in its report, we recommended that guidance on the use of the provision be issued but did not suggest that its scope be narrowed as a result. Although the sort of young people whom Mr Maxwell has identified give me cause for concern, I am sure that the provision will not apply exclusively to them.

Everything that we—and, to its credit, the Government—has tried to do with this bill has been with the aim of making it as safe and as easy as possible for young people to exercise their vote next year, and I would hate to think that we would be doing something that makes the process more difficult for young people whose lives are already perhaps more difficult than we would like them to be. As a result, I hope that the cabinet secretary will look at the issue again and see whether there might be a better way of drawing that provision.

Annabel Goldie: I am comforted by the additional reassurance provided in amendment 7, which I think is helpful.

Given that we will discuss the cabinet secretary’s amendment on the canvass form later, I do not know whether to mention this point now. However, I was concerned that the adult completing the canvass form would not be alert to the facility of not requiring to disclose the young person’s postal address and wondered whether any further thought had been given to the issue. Again, I make it clear that I am reassured by this amendment.

Nicola Sturgeon: I appreciate that we might discuss the point that Annabel Goldie has raised in a bit more detail when we come to a later group, but I should say that we are considering a potential stage 3 amendment to cover the question that she has highlighted. Whether it is right to do things this way or whether they need to be covered in guidance is a matter that we will get into in more detail when we come to the relevant group.

First, I should perhaps make it more explicit why we consider amendments to this section to be appropriate. As the bill’s original provision does not explicitly state who would be eligible to make a declaration of local connection, it is theoretically possible—although I accept that it is practically unlikely—that it could have allowed any young person living outside Scotland to register using a previous Scottish address. As I think that that definition is too wide and poses risks, I have lodged these amendments.

The amendments are consistent with the bill’s general principle of seeking to replicate existing practice as far as possible while recognising certain young people’s particular needs. As I said in my opening remarks, I accept that there are young people who might be at risk for reasons other than those set out in these amendments. It is not the Government’s intention to make things any more difficult for young people whose lives are already difficult.

I believe that the provisions on anonymous registration cater for young people in these circumstances. To register anonymously, a person
has to provide evidence of either of two types: first, that the person or a member of their household is protected by one of several listed court orders giving protection from harassment; or, secondly, that a senior police officer, chief social work officer or other listed person of similar type has certified that the safety of someone in the household would be at risk if they were registered in a way that showed their name or address.

10:30

That is more about suppressing a person’s name and address than about allowing a different address to be used. It provides arguably stronger protection than a declaration of local connection for young people in the circumstances. However, given the sensitivity of the issue and the determination of us all to get this right, I give the committee two undertakings. First, as I have said, we will have a discussion with the commissioner to ensure that the commissioner understands where we are coming from and what we consider the position to be. That will tell us whether that satisfies the commissioner or whether there are any remaining concerns. Secondly, I will write to the Electoral Commission before stage 3, setting out the position and the outcome of our discussions with the commissioner.

Amendment 7 agreed to.

Amendment 8 moved—[Nicola Sturgeon]—and agreed to.

Section 7, as amended, agreed to.

Section 8 agreed to.

Schedule 2—Canvass form

The Convener: Amendment 9, in the name of the Deputy First Minister, is grouped with amendments 10, 11, 11A, 13, 12, 36, 14, 37, 15, 38, 16 to 21, 39 and 22 to 27. There are some pre-exemptions. If amendment 37 is agreed to, I will not be able to call amendment 15. If amendment 38 is agreed to, I will not be able to call amendment 16. If amendment 39 is agreed to, I will not be able to call amendment 22.

I call the Deputy First Minister to move amendment 9 and to speak to all the amendments in the group.

Nicola Sturgeon: Schedule 2 contains the young voter registration form that is to be used in the autumn 2013 canvass, which was developed by the Government in line with Electoral Commission guidelines. Both the Electoral Commission and electoral registration officers provided valuable advice in the development of the form.

The form has also been subject to a rigorous process of independent testing, which was conducted through a series of one-to-one interviews. It covered households with eligible and ineligible 15-year-olds and targeted groups who may be more likely to encounter difficulties in filling out a form, such as those who have a low level of literacy or English as a second language.

The main findings of the testing report were that the form works well and is easily understood. In particular, no one failed to include an eligible 15-year-old on the canvass form and everyone who should have been registered to vote was included on it in tests. Various minor changes to the form were recommended in relation to wording and formatting. The Government fully accepts all the recommendations and seeks to implement them through our amendments.

The amendments to schedule 2 that I propose fall into three broad groups. The first group of amendments inserts into the canvass form the date of the referendum, which had not been confirmed when the bill was published. The amendments dealing with that include amendments 15, 16, 22 and 23.

The second group of amendments were suggested by the electoral registration officers. The Government has worked closely with those officers in developing the bill and will continue to do so throughout its implementation. Amendments 9 and 18, in particular, are the result of further discussion of the form with the EROs. Amendment 9 allows space for the address of the household to be included on the form, allowing registration officers to associate the details contained in the form with the correct address even if the form is returned separately from the main canvass form or the two forms become separated during processing. Amendment 18 makes it clear that anyone who fills out the form should correct any errors in the pre-populated fields, ensuring that registration officers will collect the most accurate and up-to-date information.

The third category of my proposed amendments results from recommendations following independent testing of the canvass form. The Scottish Government committed to accepting all the recommendations made in the testing report, and the amendments achieve that. The minor amendments that I propose for the canvass form should ensure that it is clear, intelligible and as easy to use as possible.

Amendments 11A and 36 to 39, in the name of Patricia Ferguson, propose using the date of birth on the canvass form to establish eligibility as opposed to the current method of using the young person’s age at the date of the referendum. I understand that the Scottish Youth Parliament
raised this issue during one of the committee’s evidence sessions.

I appreciate the reasoning behind the proposed amendment, but the form has been independently tested using the phrase “will be 16 by the date of the referendum” rather than the phrase “was born before 19 September 1998”. Indeed, the testing report specifically considered including the date of birth on the front of the form, but it concluded:

“Given that none of the participants had any difficulty in working out eligibility from the dummy referendum date, and given the preference for less text … we do not recommend adding this to the front page.”

Given the process of independent testing that we have gone through, I think that it would be wrong to insert something that was not only not recommended for the process but which was specifically considered and rejected in a recommendation. I appreciate the reasoning behind amendments 11A and 36 to 39, but I cannot support them.

I move amendment 9.

The Convener: Patricia Ferguson will speak to amendment 11A and other amendments in the group.

Patricia Ferguson: I will speak to amendment 11A and the consequential amendments.

As the Deputy First Minister rightly indicated, the genesis of amendment 11A was the compelling evidence of Andrew Deans, member of the Scottish Youth Parliament, who pointed to the confusion that he and his colleagues had experienced when considering the way in which the registration voting forms were drafted. They suggested that we should include the date of birth for the sake of clarity. The committee agreed with that in its stage 1 report; indeed, it raised the matter—certainly, I did—in the debate at that point.

I realise that the Government has gone some way towards making the form clearer through the amendments that it has introduced. However, I point out to the Deputy First Minister that the report on the independent testing of the young voter form and the other registration forms commented on the inclusion of 16-year-olds—or one at least—on the young voter form; and I understand that a 15-year-old and a 16-year-old were included on both of the canvass forms. I accept that it would be better to be on both than on none at all, but I think that that indicates that there is still an element of confusion.

I believe that the use of date of birth as a marker is generally accepted and that it would be recognised more widely by those completing the forms. I think that it would help improve the clarity of the form for those who will be tasked with completing it, often on behalf of their younger child or sibling.

The Convener: Annabel Goldie wants to contribute to the debate.

Annabel Goldie: Yes, very briefly.

Again, I thank the Deputy First Minister, because I think that her amendments help to clarify the position. For the avoidance of doubt, although I am very happy to contribute to the debate on the mechanics of the bill, that does not in any way indicate my agreement with the principle of giving youngsters of 16 and 17 the vote. I want to make that clear, but I do not want that to detract from my willingness to participate in the debate.

On Patricia Ferguson’s point, I mulled it over and wondered what I would do if I were a parent filling up the canvass form. I think that most parents are aware of the ages that their youngsters are coming to, but I think that it requires in some cases a bit of mental arithmetic to work out when they were born. Perhaps not all parents are entirely clear about that, so I think that my preference is to leave the bill as drafted by the Scottish Government. I therefore do not propose to support Patricia Ferguson’s amendments, because I think that the Government’s drafting position is clear.

The Convener: The Deputy First Minister will wind up.

Nicola Sturgeon: I have just two points to make.

The first is a point of clarity and information: the date of birth is included on the back of the form, so it is used on the form. My second point returns to a point that I made earlier. I appreciate that Patricia Ferguson’s arguments are not completely without validity. However, I read out earlier the conclusion of the independent testing process on including the date of birth. If I accepted Patricia Ferguson’s proposed amendment, I would be going against a process and recommendations that I have made clear I want to accept. I do not think that the case has been made for me to do that.

Secondly, the point that Annabel Goldie made at the end of her remarks is a powerful one. A parent knows whether or not their child will be a certain age by a certain date. If that date is the date of birth, they might have to think about it a bit more, but I do not know—perhaps that is a bit of a generalisation.

Anyway, for all the reasons that I have set out, I think that we should keep the bill as it is in relation to that aspect of the form. I therefore ask the committee to support the amendments in my name and to oppose the amendments in the name of Patricia Ferguson.
Amendment 9 agreed to.
Amendment 10 moved—[Nicola Sturgeon]—and agreed to.
Amendment 11 moved—[Nicola Sturgeon].
Amendment 11A moved—[Patricia Ferguson].

The Convener: The question is, that amendment 11A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Kelly, James (Rutherglen) (Lab)

Against
Crawford, Bruce (Stirling) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Harvie, Patrick (Glasgow) (Green)
Maxwell, Stewart (West Scotland) (SNP)
Scott, Tavish (Shetland Islands) (LD)

The Convener: The result of the division is: For 2, Against 9, Abstentions 0.

Amendment 11A disagreed to.
Amendment 11 agreed to.
Amendments 13 and 12 moved—[Nicola Sturgeon]—and agreed to.
Amendment 36 not moved.
Amendment 14 moved—[Nicola Sturgeon]—and agreed to.
Amendment 37 not moved.
Amendment 15 moved—[Nicola Sturgeon]—and agreed to.
Amendment 38 not moved.
Amendments 16 to 21 moved—[Nicola Sturgeon]—and agreed to.
Amendment 39 not moved.
Amendments 22 to 27 moved—[Nicola Sturgeon]—and agreed to.

Schedule 2, as amended, agreed to.

Section 9—Register of young voters not to be published

The Convener: Amendment 28, in the name of the Deputy First Minister, is in a group on its own.

10:45
Nicola Sturgeon: Section 9 provides that information in the register of young voters is to be available to electoral registration officers and their staff only for purposes connected with registering young people to vote in the referendum and the conduct of the referendum. The bill prohibits registration staff from publishing the register or disclosing information about it.

Such an approach is in line with the bill’s consistent approach, in ensuring that information that relates to young voters is treated sensitively and kept securely. The approach was welcomed by stakeholders in the consultation that we undertook around Christmas last year.

We have been considering whether the strict control on access to the register could impede the investigation and prosecution of offences that are provided for in this bill or in the Scottish Independence Referendum Bill. We concluded that there could be difficulties and that this bill should be amended to ensure that, while information about young people will continue to be protected, electoral registration officers will be able to disclose information where it is necessary to do so for purposes that are connected with criminal investigations or criminal proceedings that relate to the referendum.

I move amendment 28.

Amendment 28 agreed to.

Section 9, as amended, agreed to.
Sections 10 to 12 agreed to.

Section 13—Commencement

Amendment 29 moved—[Nicola Sturgeon]—and agreed to.

Section 13, as amended, agreed to.
Sections 14 and 15 agreed to.
Long title agreed to.

Annabel Goldie: On a point of order, convener.

The Convener: I still have things to say, but on you go.

Annabel Goldie: I did not want to jump up and down to disagree with every section, but I want to make clear that my objection in principle to the extension of the franchise to 16 and 17-year-olds stands.

The Convener: That is on the record. That probably was not a proper point of order, but I will let you away with it on this occasion.

Members should note that the bill will be reprinted as amended and will be available in print and on the web tomorrow morning.

Stage 3 is expected to take place in the final week of business before the summer recess, but the date has yet to be decided. Members may lodge stage 3 amendments with the legislation team at any time from today. You will be informed of the deadline for lodging amendments when the date for stage 3 has been determined.

Meeting closed at 10:47.
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Scottish Independence Referendum (Franchise) Bill
[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland, including provision for the establishment of a register of young voters for the purposes of such a referendum.

Application of Act

1 Application to independence referendum

(1) This Act applies for the purposes of an independence referendum.

(2) In this Act, an “independence referendum” means a referendum on the independence of Scotland held—

(a) in accordance with paragraph 5A of Part 1 of Schedule 5 to the Scotland Act 1998, and

(b) in pursuance of provision made by or under an Act of the Scottish Parliament.

Franchise at independence referendum

2 Those entitled to vote in an independence referendum

(1) A person is entitled to vote in an independence referendum if, on the date on which the poll at the referendum is held, the person is—

(a) aged 16 or over,

(b) registered in either—

(i) the register of local government electors maintained under section 9(1)(b) of the 1983 Act for any area in Scotland, or

(ii) the register of young voters maintained under section 4 of this Act for any such area,

(c) not subject to any legal incapacity to vote (age apart), and

(d) a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union.
(2) For the purposes of this Act, a person is, on any date, subject to a legal incapacity to vote if the person—

(a) would be legally incapable (whether by virtue of any enactment or any rule of law) of voting at a local government election in Scotland held on that date, or

(b) is legally incapable, by virtue of section 3, of voting in an independence referendum held on that date.

3 Offenders in prison etc. not to be entitled to vote

(1) A convicted person is legally incapable of voting in an independence referendum for the period during which the person is detained in a penal institution in pursuance of the sentence imposed on the person.

(2) A convicted person who is unlawfully at large at a time when the person would otherwise be detained as mentioned in subsection (1) is to be treated for the purposes of that subsection as being so detained at that time.

(3) For the purposes of subsection (1)—

(a) a person detained for default in complying with a sentence is not to be treated as being detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, and

(b) a person detained by virtue of a conditional pardon in respect of an offence is to be treated as detained in pursuance of the sentence for the offence.

(4) It does not matter for the purposes of subsection (1) whether a person was convicted, or a sentence imposed, before or after the commencement of this Act.

(5) In this section—

“convicted person” means a person found guilty of an offence (whether under the law of any part of the United Kingdom or anywhere else) and—

(a) includes a person found guilty by a court of a service offence within the meaning of the Armed Forces Act 2006, but

(b) does not include a person dealt with by committal or other summary process for contempt of court,

“penal institution” means an institution to which the Prison Act 1952, the Prison Act (Northern Ireland) 1953 or the Prisons (Scotland) Act 1989 applies.

Register of young voters

4 Register of young voters

(1) For the purposes of this Act, each registration officer must prepare and maintain, for the officer’s area, a register to be known as the register of young voters.

(2) The register must contain—

(a) the names of the persons appearing to the registration officer to be entitled to be registered in the register, and

(b) in relation to each person registered in it, the person’s—

(i) date of birth,
(ii) (except where otherwise provided by an applied enactment) qualifying address, and

(iii) voter number.

(3) Subsection (2) is subject to section 9B of the 1983 Act (anonymous registration).

(4) A person’s qualifying address is the address in respect of which the person is entitled to be registered in the register.

(5) A person’s voter number is such number (with or without any letters) as is for the time being allocated by the registration officer to the person for the purposes of the register.

5 Those entitled to be registered in the register of young voters

(1) A person is entitled to be registered in the register of young voters for any area if, on the relevant date, the person—

   (a) is not registered in the register of local government electors for the area,
   (b) meets the requirements (apart from any requirement as to age) for registration in the register of local government electors for the area, and
   (c) has attained the age of 16, or will attain that age on or before the date on which the poll at an independence referendum is to be held.

(2) In the case of a person who has not yet attained the age of 16—

   (a) the person’s entry in the register must state the date on which the person will attain the age of 16, and
   (b) until that date, the person is not, by virtue of the entry, to be taken to be a voter for the purposes of any independence referendum other than one the date of the poll at which is on or after that date.

(3) Where a person to whom subsection (2) applies has an anonymous entry in the register, the references in that subsection to the person’s entry in the register are to be read as references to the person’s entry in the record of anonymous entries.

(4) In this section, “the relevant date” means—

   (a) the date on which an application for registration in the register of young voters is made (or the date on which such an application is treated as made by virtue of section 10A(2) of the 1983 Act), or
   (b) in the case of a person applying for registration in the register of young voters in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

6 Application of enactments relating to registration

(1) The enactments specified in column 1 of the tables in Parts 2, 3 and 4 of schedule 1 apply in relation to registration in the register of young voters (and to that register) for any area in Scotland as they apply in relation to registration in the register of local government electors (and to that register) for that area, but subject to—

   (a) the modifications in Part 1 of schedule 1,
   (b) the modifications (if any) in the corresponding entries in column 2 of the tables, and
   (c) any other necessary modifications.
(2) References in this Act to any enactment applied by virtue of this section and schedule 1 are to the enactment as it had effect on the day on which the Bill for this Act was passed by the Parliament.

(3) Subsection (2) does not apply to an enactment specified in Part 4 of schedule 1.

7 Declaration of local connection: additional ground for young people

(1) This section applies for the purposes of the application of section 7B of the 1983 Act (notional residence: declaration of local connection) in relation to registration in the register of young voters.

(2) Section 7B of the 1983 Act also applies to a person who, on the date on which the person makes a declaration under subsection (1) of that section—

(a) has not attained the age of 17,

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

(d) meets either of the requirements specified in subsection (2A).

(2A) 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.

(3) In relation to such a person, “the required address” for the purposes of section 7B of the 1983 Act is any address in Scotland at which the person has previously been resident.

(4) In subsection (2A)—

(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).

8 Register of young voters: canvass form

The form to be used for the purposes of the canvass under section 10(1) of the 1983 Act in relation to registration in the register of young voters is set out in schedule 2.

9 Register of young voters not to be published

(1) A registration officer must not publish, or otherwise disclose to any person, the register of young voters or any entry in the register, except as provided by—

(a) this section, or
(b) an applied enactment.

(2) The register, or an entry in it, may be disclosed to a person so far as necessary for the purpose of the carrying out by that person of any function in connection with registration in the register.

(3) The register, or an entry in it, may be disclosed to a person for the purposes of an independence referendum, but only in accordance with provision made by or under the Act of the Scottish Parliament by virtue of which the referendum is to be held.

(3A) The register, or an entry in it, may be disclosed to a person so far as necessary for the purposes of a criminal investigation or criminal proceedings relating to an offence (or alleged or suspected offence) under—

(a) an applied enactment, or

(b) the Act of the Scottish Parliament by virtue of which an independence referendum is held.

(4) An entry in the register may be disclosed to the person to whom the entry relates.

(5) In subsection (1), “registration officer” includes—

(a) any deputy of a registration officer,

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

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

Registration officers’ expenses

10 Registration officers’ expenses

(1) Any expenses properly incurred by a registration officer that are attributable to the exercise of the registration officer’s functions under this Act are to be paid by the Scottish Ministers.

(2) Sums payable by the Scottish Ministers under subsection (1) are payable on the submission of an account for the sums to them by the registration officer.

(3) If a registration officer requests from the Scottish Ministers an advance on account of any expenses referred to in subsection (1), the Scottish Ministers may make such advance on such terms as they think fit.

General

11 Power to make supplementary etc. provision and modifications

(1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) The power in subsection (1) includes power to make provision in consequence of, or in connection with—

(a) any provision made, or proposed to be made, in an Act of the Scottish Parliament for the holding of an independence referendum,
(b) any modification, or proposed modification, of any enactment relating to the registration of electors for the purposes of local government elections in Scotland.

(3) An order under subsection (1) may—

(a) modify any enactment (including this Act),

(b) apply any provision of any enactment (either with or without modifications),

(c) include supplementary, incidental, consequential, transitory or transitional provision or savings.

(4) An order under subsection (1) is subject to the affirmative procedure.

12 Interpretation

(1) In this Act—

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

“anonymous entry” in relation to the register of young voters is to be construed in accordance with section 9B of the 1983 Act, and “record of anonymous entries” means the record prepared under regulation 45A of the Representation of the People (Scotland) Regulations 2001 (SI 2001/497),

“applied enactment” means an enactment as applied for the purposes of this Act by virtue of section 6(1),

“area”, in relation to a registration officer, means the area for which the officer acts in relation to the registration of local government electors,

“declaration of local connection” means a declaration under section 7B of the 1983 Act,

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

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

“relevant citizen of the European Union” means a citizen of the Union who is not a Commonwealth citizen or a citizen of the Republic of Ireland,

“service declaration” means a declaration under section 15 of the 1983 Act.

(2) In this Act, a reference to a provision of the 1983 Act that is applied for the purposes of this Act by virtue of section 6(1) is a reference to that provision as so applied.

13 Commencement

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

(2) Despite subsection (1), no application for registration in the register of young voters may be made before 1 October 2013.

14 Repeal

This Act ceases to have effect on 1 January 2015.
15 **Short title**

The short title of this Act is the Scottish Independence Referendum (Franchise) Act 2013.
SCHEDULE 1
(introduced by section 6(1))
APPLICATION OF ENACTMENTS

PART 1
GENERAL MODIFICATIONS

In any enactment as applied by virtue of section 6(1) and this schedule, unless the context requires otherwise—

(a) references to the register of local government electors (however expressed) are to be read as references to the register of young voters,

(b) references to residency for the purposes of section 4 of the 1983 Act are to be read as references to residency for the purposes of that section as it has effect for the purposes of section 5(1)(b) of this Act,

(c) references to any other enactment which is applied by virtue of section 6(1) are to be read as references to the enactment as so applied,

(d) “prescribed” means prescribed in an enactment specified in column 1 of the table in Part 3 of this schedule as that enactment is applied by virtue of section 6(1),

(e) “regulations” means any such enactment as is referred to in paragraph (d).

PART 2
THE 1983 ACT

The provisions referred to in column 1 of the table are provisions in the 1983 Act.

<table>
<thead>
<tr>
<th>Provision of the 1983 Act</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 5 (residence: general)</td>
<td></td>
</tr>
<tr>
<td>Section 6 (residence: merchant seamen)</td>
<td></td>
</tr>
<tr>
<td>Section 7 (residence: patients in mental hospitals who are not detained offenders or on remand)</td>
<td>In subsection (3)(a)(i), the reference to the returning officer is to be read as a reference to a counting officer appointed for the purposes of an independence referendum.</td>
</tr>
<tr>
<td>Section 7A (residence: persons remanded in custody etc.)</td>
<td></td>
</tr>
<tr>
<td>Section 7B (notional residence: declarations of local connection)</td>
<td></td>
</tr>
</tbody>
</table>
### Scottish Independence Referendum (Franchise) Bill
### Schedule 1—Application of enactments
### Part 2—The 1983 Act

<table>
<thead>
<tr>
<th>Provision of the 1983 Act</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>In subsection (3)(e), the words “(if the declaration is made for the purposes only of local government elections)” are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3)(f), the reference to the age of 18 years is to be read as a reference to the age of 17 years.</td>
<td></td>
</tr>
<tr>
<td>Subsections (5) to (7) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to the duty to maintain the registers under section 9 of the 1983 Act is to be read as a reference to the duty to maintain the register of young voters under section 4(1) of this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsections (2) and (3) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3)(a), the reference to section 9(2) of the 1983 Act is to be read as a reference to section 4(2) of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
<td></td>
</tr>
<tr>
<td>In subsection (8), the words “or the returning officer for any election” are omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsection (1) has effect as if—</td>
<td></td>
</tr>
<tr>
<td>(a) for “an annual canvass” there were substituted “a canvass between 1 October 2013 and 10 March 2014”, and</td>
<td></td>
</tr>
<tr>
<td>(b) the words “, or to remain,” were omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsections (1A) and (2) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3)(a), the reference to section 3 of the 1983 Act is to be read as a reference to section 3 of this Act.</td>
<td></td>
</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modifications</td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Subsection (3)(b)(iii) is omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsection (4) is omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (5), the references to a form are to be read as references to the form referred to in section 8 of this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsection (6) has effect as if for “alterations” there were substituted “entries”.</td>
<td></td>
</tr>
<tr>
<td>In subsection (2A), the words “(subject to section 13BB(2))” are omitted.</td>
<td></td>
</tr>
<tr>
<td>In each of subsections (2A) and (5)(a), the reference to the 15th October in the year in question is to be read as a reference to the date on which the canvass form was received by the registration officer.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3), the reference to the register in question is to be read as a reference to the register of young voters or the register of local government electors.</td>
<td></td>
</tr>
<tr>
<td>In subsection (4)(a), the reference to voting age is to be read as a reference to the age of 16 years.</td>
<td></td>
</tr>
<tr>
<td>In subsection (5)(a)(i), the reference to the form mentioned in section 10(4) is to be read as a reference to the form referred to in section 8 of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (5)(b), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to the publication of a revised version of a register under section 13 of the 1983 Act is to be read as a reference to the preparation of the register of young voters under section 4(1) of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1)(c), the words “or 58” are omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsection (3) is omitted.</td>
<td></td>
</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modifications</td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>In subsection (5)—</td>
<td></td>
</tr>
<tr>
<td>(a) the reference to a published version of a register of electors is to be read as a reference to the register of young voters, and</td>
<td></td>
</tr>
<tr>
<td>(b) the words “or section 13BB below” are omitted.</td>
<td></td>
</tr>
<tr>
<td>References to an election to which section 13B applies are to be read as references to an independence referendum.</td>
<td></td>
</tr>
<tr>
<td>References to the appropriate publication date are to be read as references to the fifth day before the date of the poll at an independence referendum.</td>
<td></td>
</tr>
<tr>
<td>References to the relevant election area are to be read as references to the area for which the registration officer acts.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to a published version of a register is to be read as a reference to the register of young voters.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to the registration of electors is to be read as a reference to registration in the register of young voters.</td>
<td></td>
</tr>
<tr>
<td>Subsections (1A), (2) and (8) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to the 1983 Act is to be read as including a reference to this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsection (2) is omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsections (5) and (9) to (12) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In paragraph (f), the reference to the age of 18 years is to be read as a reference to the age of 17 years.</td>
<td></td>
</tr>
<tr>
<td>Subsection (1)(b) is omitted.</td>
<td></td>
</tr>
<tr>
<td>References to the 1983 Act are to be read as including references to this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsections (1), (1A), (3) and (5) are omitted.</td>
<td></td>
</tr>
</tbody>
</table>
### Scottish Independence Referendum (Franchise) Bill

**Schedule 1—Application of enactments**

**Part 2—The 1983 Act**

<table>
<thead>
<tr>
<th>Provision of the 1983 Act</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 56 (registration appeals)</strong></td>
<td>In subsection (4), paragraphs (a) and (aa) are omitted.</td>
</tr>
<tr>
<td></td>
<td>In subsection (1)(aa), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td></td>
<td>Subsection (1)(b) is omitted.</td>
</tr>
<tr>
<td></td>
<td>Subsections (3) and (4A) are omitted.</td>
</tr>
<tr>
<td><strong>Section 57 (registration appeals: Scotland)</strong></td>
<td>Subsections (3) to (4) are omitted.</td>
</tr>
<tr>
<td><strong>Section 59 (supplemental provisions as to members of forces and service voters)</strong></td>
<td>References to being subject to a legal incapacity to vote are to be read as references to being subject to a legal incapacity to vote within the meaning of section 2(2) of this Act.</td>
</tr>
<tr>
<td><strong>Section 62 (offences as to declarations)</strong></td>
<td>Subsection (2) is omitted.</td>
</tr>
<tr>
<td><strong>Section 63 (breach of official duty)</strong></td>
<td>References to “official duty” are to be read as including a duty imposed by virtue of this Act.</td>
</tr>
<tr>
<td></td>
<td>In subsection (3), paragraphs (a), (c) and (d) are omitted.</td>
</tr>
<tr>
<td></td>
<td>In subsection (3)(b), the words “returning officer or presiding officer” are omitted.</td>
</tr>
<tr>
<td></td>
<td>Subsections (4) and (5) are omitted.</td>
</tr>
</tbody>
</table>
## Part 3

**Representation of the People (Scotland) Regulations 2001**

The provisions referred to in column 1 of the table are provisions in the Representation of the People (Scotland) Regulations 2001 (SI 2001/497).

<table>
<thead>
<tr>
<th>Provisions of the 2001 Regulations</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 3 (interpretation)</td>
<td>Paragraphs (2) to (4) are omitted.</td>
</tr>
<tr>
<td>Regulation 4 (forms)</td>
<td>In paragraph (1)—</td>
</tr>
<tr>
<td></td>
<td>(a) sub-paragraph (b) is omitted, and</td>
</tr>
<tr>
<td></td>
<td>(b) the reference to an election is to be read as a reference to an independence referendum.</td>
</tr>
<tr>
<td>Regulation 5 (communication of applications, notices etc.)</td>
<td>Paragraph (2) is omitted.</td>
</tr>
<tr>
<td>Regulation 6 (electronic signatures and related certificates)</td>
<td>In paragraph (2), the words “Subject to regulation 56(6) below,” are omitted.</td>
</tr>
<tr>
<td>Regulation 8 (time)</td>
<td>The reference to a registration officer’s registration duties is to be read as a reference to the officer’s duties by virtue of this Act.</td>
</tr>
<tr>
<td>Regulation 11 (interference with notices etc.)</td>
<td>In paragraph (1), the words “made by a member of the forces or his spouse or civil partner” are omitted.</td>
</tr>
<tr>
<td>Regulation 14 (service declarations: qualification for Crown servants)</td>
<td>Paragraphs (2) and (3) are omitted.</td>
</tr>
<tr>
<td>Regulation 15 (contents of service declaration)</td>
<td></td>
</tr>
<tr>
<td>Regulation 16 (transmission of service declaration)</td>
<td></td>
</tr>
<tr>
<td>Regulation 17 (notification by registration officer in respect of service declarations)</td>
<td></td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>------------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Regulation 23 (power to require information)</td>
<td>Paragraph (2)(c) is omitted.</td>
</tr>
<tr>
<td>Regulation 24 (evidence as to age and nationality)</td>
<td>In paragraph (2)(d), the word “other” is omitted. In paragraph (3), the reference to section 54(1) of the 1983 Act is to be read as a reference to section 10(1) of this Act. Paragraphs (4) and (4A) are omitted.</td>
</tr>
<tr>
<td>Regulation 26 (applications for registration)</td>
<td>In paragraphs (1) to (3), the references to registration as a parliamentary or local government elector (or both) are to be read as references to registration in the register of young voters. In paragraph (1)(c), the reference to being registered as an elector is to be read as a reference to being registered in the register of young voters. Paragraph (1)(e) is omitted. In paragraph (1)(f), the words “except in the case of a person applying to be registered in pursuance of an overseas elector’s declaration,” are omitted. In each of paragraphs (2) and (5), the words “or an overseas elector’s declaration” are omitted. Paragraphs (6) to (10) are omitted.</td>
</tr>
<tr>
<td>Regulation 27 (objections to registration)</td>
<td>In paragraph (1)— (a) in paragraph (a), the reference to the name of a person is to be read as a reference to the name and address of the person, (b) sub-paragraphs (b) and (ba) are omitted. In paragraph (1)(d), the reference to the register is to be read as a reference to the register of young voters or the register of local government electors. In paragraph (1)(e), the reference to the electoral number is to be read as including a reference to the voter number.</td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Regulation 29 (procedure for determining applications for registration and objections without a hearing)</td>
<td>Paragraph (8) is omitted.</td>
</tr>
<tr>
<td>Regulation 30 (notice of hearing)</td>
<td></td>
</tr>
<tr>
<td>Regulation 31 (hearing of applications and objections)</td>
<td>In paragraph (1)(c), the word “13(5),” is omitted.</td>
</tr>
<tr>
<td>Regulation 31A (objections relating to applications that have been allowed, but before alterations to register have taken effect)</td>
<td>Paragraph (2)(a)(ii) is omitted.</td>
</tr>
<tr>
<td>Regulation 31B (other determinations by registration officer of entitlement to registration)</td>
<td>In paragraph (2)(b)(ii), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31C (summary procedure for determining in specified circumstances person has ceased to satisfy conditions for registration)</td>
<td>In paragraph (2)(c), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31D (procedure for reviewing entitlement to registration)</td>
<td>In each of paragraphs (5) and (8), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31E (list of reviews)</td>
<td>In paragraph (2)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. Paragraph (3) is omitted.</td>
</tr>
<tr>
<td>Regulation 31F (hearings of reviews)</td>
<td>In paragraph (6), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31G (anonymous registration: applications and declarations)</td>
<td></td>
</tr>
</tbody>
</table>
### Provisions of the 2001 Regulations

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>31H</td>
<td>(anonymous registration: determination of applications by registration officer)</td>
</tr>
<tr>
<td>31I</td>
<td>(anonymous registration: evidence consisting of relevant court orders or injunctions)</td>
</tr>
<tr>
<td>31J</td>
<td>(anonymous registration: evidence by attestation)</td>
</tr>
<tr>
<td>32</td>
<td>(registration appeals)</td>
</tr>
<tr>
<td>32A</td>
<td>(representations regarding clerical errors)</td>
</tr>
<tr>
<td>35</td>
<td>(registration officer’s right to inspect certain records)</td>
</tr>
<tr>
<td>36</td>
<td>(notices in connection with registration)</td>
</tr>
<tr>
<td>36A</td>
<td>(communication of notices made on polling day)</td>
</tr>
<tr>
<td>37</td>
<td>(notice by registration officer of a change of address)</td>
</tr>
<tr>
<td>40</td>
<td>(qualifying addresses which are not included in the register)</td>
</tr>
<tr>
<td>41</td>
<td>(order of names)</td>
</tr>
<tr>
<td>41A</td>
<td>(anonymous entries)</td>
</tr>
</tbody>
</table>

<p>| 5          | In paragraph (1)(b), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act. |
| 10         | In paragraph (1), the reference to a registration officer’s registration duties is to be read as a reference to the officer’s duties by virtue of this Act. |
| 15         | Paragraph (1) is omitted. |
| 20         | In paragraph (2), sub-paragraphs (a) and (aa) are omitted. |
| 25         | In paragraph (1), the reference to section 9(2)(b) of the 1983 Act is to be read as a reference to section 4(2)(b)(ii) of this Act. |
| 30         | Paragraph (1)(b) is omitted. |
| 35         | In paragraph (3)(b), the reference to electors is to be read as a reference to voters. |
|            | In paragraph (1), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. |
|            | In paragraph (2)(b), the reference to electors is to be read as a reference to voters. |</p>
<table>
<thead>
<tr>
<th>Provisions of the 2001 Regulations</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 45A (record of anonymous entries)</td>
<td>In paragraph (1), the reference to a record of anonymous entries is to be read as a reference to a separate such record in relation to the register of young voters.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (4), the words “(in accordance with regulation 51(2)(d))” are omitted.</td>
</tr>
<tr>
<td>Regulation 45B (duties of registration officer and staff in relation to record of anonymous entries)</td>
<td>References to a referendum are to be read as references to an independence referendum.</td>
</tr>
<tr>
<td></td>
<td>References to the counting officer at a referendum are to be read as references to a counting officer at an independence referendum.</td>
</tr>
<tr>
<td></td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (2), the words “returning officer at any election or” are omitted.</td>
</tr>
<tr>
<td></td>
<td>In each of paragraphs (2)(b) and (4), the words “election or” are omitted.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (6), the definition of “counting officer” is omitted.</td>
</tr>
<tr>
<td>Regulation 45C (supply of record of anonymous entries to returning and counting officers)</td>
<td>References to a counting officer are to be read as references to a counting officer at an independence referendum.</td>
</tr>
<tr>
<td></td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act.</td>
</tr>
<tr>
<td></td>
<td>In each of paragraphs (1) and (3), the words “returning officer or” are omitted.</td>
</tr>
<tr>
<td></td>
<td>In paragraph (4), for the words “an election or referendum (as the case may be)” there are substituted “an independence referendum”.</td>
</tr>
</tbody>
</table>
### Provisions of the 2001 Regulations

<table>
<thead>
<tr>
<th>Provisions</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 45F (certificate of anonymous registration)</td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act. In paragraph (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. Paragraph (3)(d) is omitted.</td>
</tr>
<tr>
<td>Regulation 115 (offences)</td>
<td>References to the provisions specified in paragraph (2) are to be read as references to regulation 45C(4). Paragraph (2) is omitted.</td>
</tr>
</tbody>
</table>

### PART 4

#### OTHER ENACTMENTS

<table>
<thead>
<tr>
<th>Enactments</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any act of sederunt under section 57(2) or (3) of the 1983 Act (registration appeals: Scotland)</td>
<td></td>
</tr>
</tbody>
</table>
To the occupier

[Address line 1]
[Address line 2]
[Address line 3]
[Address line 4]

The voting age for the referendum on Scottish independence is 16. British citizens, European Union citizens and qualifying Commonwealth citizens are entitled to vote.

If there are 15 year olds living at this address who will be 16 by the referendum on 18 September 2014, they should be registered using this form to make sure they can vote in the referendum. Please enter their details in Part 1 below, sign Part 2 and return the form. This is required by law. Please see over the page for more details.

If there are no 15 year olds living at this address who will be 16 by 18 September 2014, you do not need to complete or return this form.

People who are already 16 or older should not be registered using this form – their details should instead be entered on the annual canvass form (enclosed in the same envelope as this form).

**Part 1 15 year olds living at this address who will be 16 by 18 September 2014**

Please enter the names of 15 year olds living here who will be 16 by 18 September 2014 and are entitled to vote in the referendum, and whose names are not already printed below. Please cross out any names printed below that should not be on this form. Please also cross out and replace any incorrect information shown below.

<table>
<thead>
<tr>
<th>Surname</th>
<th>First name and middle initials</th>
<th>Nationality</th>
<th>Date of birth</th>
<th>Postal vote</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Scottish Independence Referendum (Franchise) Bill

Schedule 2—Canvass form

Part 2 Please sign here before returning this form

It is an offence to give false information on this form.

I declare that, as far as I know, the details on this form are accurate and complete.

Signature ___________________________ Date ____________

Print name __________________________

Daytime phone number __________________________

E-mail address __________________________

You do not need to provide your phone number or email address, but it could prove helpful if we need to contact you. It will not be used or supplied for any other purposes.

About this form

To vote in the referendum on Scottish independence, each person needs to be registered. People who are already 16 or older should be registered using the annual canvass form (which also registers them to vote in other elections once they turn 18). This form collects the information we need to register young people who are 15 at the moment, but will be 16 by the referendum on 18 September 2014. If you do not respond to this form, they may not be able to vote in the referendum.

This form will only register these young people to vote in the independence referendum: it will not register them to vote in any other election or referendum. To vote in most elections and referendums voters need to be 18.

Who can register to vote in the referendum?

Age: To vote in the referendum, voters must be 16 or older on 18 September 2014. This means that a person will be able to vote if their date of birth is 18 September 1998 or earlier.

Residence: People normally register at the address where they reside. You should include people who are temporarily away (for example, on holiday, at boarding school or in hospital). If in doubt, please get in touch with your Electoral Registration Officer using the contact details below.

Nationality: People are entitled to register to vote in the referendum if they are:

- A British citizen
- A citizen of another EU country
- A qualifying Commonwealth citizen. This means a Commonwealth citizen who has leave to enter or remain in the UK, or who does not require such leave.

Details of people at this address

For each 15 year old being registered, you need to include:

- Their surname, first name and any middle initials.
- Their nationality. This will usually be shown on the person’s passport.
Scottish Independence Referendum (Franchise) Bill

Schedule 2—Canvass form

- Their date of birth, in the format DD/MM/YY, so that we can confirm they will be 16 by the referendum. For example, 5 December 1997 should be entered as 05/12/97.
- Whether the person wants a postal vote application form.

**What happens to the information I provide on this form?**

The details of the people registered on this form will be placed on a “Register of Young Voters”, which will be used only for the referendum. Electoral Registration Officers and their staff will be the only people who are legally entitled to see the Register of Young Voters.

Some organisations will need the names and addresses of everyone who is registered to vote in the referendum, including those who are on the Register of Young Voters. These include people who administer the referendum (such as the staff at polling stations) and the official campaign groups, who may send information to everyone registered to vote. These organisations will be given a list of the names and addresses (but not the dates of birth) of everyone registered to vote in the referendum. They will not be told how old anyone on the list is, and it will be against the law for them to share or publish the list.

**How to get in touch with us if you need assistance or more information**

*[For completion by EROs]*

*Note: the form above is to be printed in a sans serif font.*
Scottish Independence Referendum (Franchise) Bill
[AS AMENDED AT STAGE 2]

An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland, including provision for the establishment of a register of young voters for the purposes of such a referendum.

Introduced by: Nicola Sturgeon
On: 11 March 2013
Bill type: Government Bill
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

REVISED EXPLANATORY NOTES

CONTENTS

1. As required under Rule 9.7.8A of the Parliament’s Standing Orders, these revised Explanatory Notes are published to accompany the Scottish Independence Referendum (Franchise) Bill as amended at Stage 2.

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The Bill covers a range of issues, with supporting detail set out in schedules, as follows:

- Franchise (sections 2-3 and schedule 1), being the rules about who is, and is not, entitled to vote in an independence referendum;

- The creation and maintenance of the Register of Young Voters (sections 4-9 and schedules 1 and 2), which is required in consequence of the extension of the franchise to persons below the age at which they can register as local government electors; and

- Registration officers’ expenses (section 10), which insofar as they relate to the functions under the Bill will be met by the Scottish Ministers.

BACKGROUND TO THE BILL

5. This Bill prescribes the rules for who can vote in a referendum on Scottish independence, and provides for the arrangements necessary for voters who will be under 18 on polling day to register to vote in the referendum.
6. The Bill consists of 15 sections and two schedules. Schedule 1 applies enactments (with modifications), mainly the Representation of the People Act 1983 ("the 1983 Act") and the Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497). Schedule 2 prescribes the Young Voter Registration form to be used to register eligible young voters during the 2013-14 annual canvass.

Application of Act

7. Section 1 of the Bill provides that the Bill will apply for the purposes of a referendum on Scottish independence. Provision for the conduct of such a referendum is a matter that would require to be enabled by a separate Act of the Scottish Parliament and is not covered by the Bill.

Franchise at independence referendum

Those entitled to vote in an independence referendum

8. 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). The eligibility criteria for the local government register 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.

9. 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 Bill 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 Bill) to be eligible to vote at an independence referendum.

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 the Bill 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.

Register of Young Voters

11. Section 4 requires each Electoral Registration Officer (ERO) in Scotland to create and maintain a register for their area, to be known as the Register of Young Voters. Each entry on the RYV must include the individual's name, date of birth, qualifying address (with limited exceptions) and voter number. Provision is made for voters to register anonymously, in line with arrangements that allow anonymous registration in the local government electoral register in particular circumstances.

Those entitled to be registered in the Register of Young Voters

12. Section 5 defines who is entitled to be registered in the RYV. A person must meet the eligibility criteria that an elector must meet to register in the local government register (apart from the age requirement). These are set out at section 4 of the 1983 Act and are explained at paragraph 8 above.

13. To register in the local government register an individual must (in addition to other eligibility requirements) attain the age of 18 within 12 months of the 1 December following the date of their application to that register. To register in the RYV an individual must not be registered in the local government register, meet the requirements (age apart) to register in that register, and be 16 years old or of an age to attain age 16 by the date of the poll at an independence referendum.

Application of enactments relating to registration

14. Section 6 introduces schedule 1, which applies to the RYV (with modifications where appropriate) the registration arrangements that exist under existing legislation in relation to the local government electoral register.

15. Part 1 of schedule 1 makes some general modifications, such as to provide that any reference to the register of local government electors is to be read as a reference to the RYV. Part 2 applies provisions from the 1983 Act, and Part 3 applies provisions from the Representation of the People (Scotland) Regulations 2001. Part 4 applies any act of sederunt that determines the composition of the Registration Appeal Court. A summary of the effect of the provisions that the Bill applies is set out at paragraphs 25 to 64 of these Explanatory Notes.

Declaration of local connection: additional ground for young people

16. Section 7 allows any child who is or has been 'looked after' or any child kept in secure accommodation (as defined in subsection (4)(b)) who does not wish to disclose the address at which they are resident to register using an address in Scotland at which they have previously resided. They can do this by making a “declaration of local connection” (which is a form
available from an ERO). This arrangement is already used in some circumstances for electoral registration under the 1983 Act.

17. A ‘looked after’ child is defined as one who is looked after by a local authority in accordance with section 17(6) of the Children (Scotland) Act 1995 (duty of local authorities in relation to looked after children). This category of child includes those for whom a local authority is providing accommodation under section 25 of the 1995 Act, those who have been through the Children’s Hearing system and are subject to a compulsory supervision order or interim compulsory supervision order, those subject to an equivalent order made elsewhere in the UK and for whom a Scottish local authority now has responsibility and those in respect of whom a permanence order has been made under section 80 of the Adoption and Children (Scotland) Act 2007 and which still has effect. In these cases a child may be cared for away from their normal place of residence, for example, by foster or kinship carers, prospective adopters, in residential care homes or residential schools.

**Canvass form**

18. Section 8 introduces schedule 2, which contains the form to be used in a canvass to ascertain persons entitled to be registered in the RYV. The form will be sent to occupiers of households in Scotland, and its return will be required if there is any young person resident at the address who will be eligible to vote in the referendum. Registration officers will use information from returned forms to make entries on the RYV, though individuals will also be able to apply to register separate from the canvass exercise.

**Register of Young Voters not to be published**

19. Section 9 prohibits EROs and their staff from publishing the RYV, or from disclosing information contained in it, except as necessary to persons who need the information to carry out registration functions, in accordance with legislation providing for the purposes of an independence referendum, or for the purposes of a criminal investigation or criminal proceedings relating to an offence in relation to the referendum. However, section 9(4) enables an individual registered in the RYV to obtain details of their own entry.

**Registration officers’ expenses**

20. Section 10 provides that the Scottish Ministers will reimburse costs EROs incur as a result of the functions they are required to carry out under the Bill. Each ERO is required to submit an account for the expenses claimed. Section 10(3) gives the Scottish Ministers the discretion to advance funds to an ERO.

**General**

**Further provision about entitlement to vote, etc.**

21. Section 11 gives the Scottish Ministers the power to make by order supplementary, incidental or consequential provision for the purposes of, in consequence of, or for giving full effect to, any provision of the Bill. Such an order can modify any enactment (including the Bill as enacted) and can apply any enactment for these purposes, with or without modifications. An
order can include supplementary, incidental, consequential, transitory or transitional provision or savings. Any such order is subject to affirmative procedure in the Scottish Parliament.

Interpretation

22. Section 12 provides interpretation for several phrases used in the Bill. These are mainly the same as the meanings these phrases have in the 1983 Act. The section provides that where a provision of that Act is applied for the purposes of this Bill, it is to be interpreted taking into account any modifications that are made in schedule 1 to the Bill.

Commencement

23. Section 13 provides for commencement of the Bill, and prevents any application for registration in the RYV being made earlier than 1 October 2013. This is intended to allow time for preparatory arrangements to be made to set up the RYV and the canvass exercise that will be required to collect details of eligible young voters. All young voters will be at least 15 at the time their details are captured.

Repeal

24. Section 14 provides for the Bill as enacted to cease to have effect on 1 January 2015. This ensures that from that date the duty imposed on EROs to prepare and maintain the RYV will cease.

Schedule 1, Part 2

25. Part 2 applies to the creation and maintenance of the RYV (with modifications where appropriate) provisions from the 1983 Act. Many of the modifications are simply to adapt the wording of provisions to the context of the RYV, or to avoid applying unnecessary subsections (for example, those that are relevant only to the registration of electors for parliamentary elections, rather than local government elections). So, for example, where references are made in the 1983 Act to provisions in that Act that are replicated in this Bill, those references are modified to refer to the replicating provisions. In general, the arrangements for preparing and maintaining the RYV follow the arrangements that apply to the register of local government electors.

26. Sections 5 to 7A relate to residence, in particular how it is determined for people who are absent from their permanent place of residence for employment, educational or health reasons. Section 6 specifically provides for merchant seamen who are not resident in the UK and sections 7 and 7A provide for patients in mental hospitals and for persons on remand etc. (in particular, when they are to be regarded as resident at the hospital or place of detention).

27. Sections 7B and 7C relate to declarations of local connection, which a person can make to allow them to register at an address. Section 7B sets out what information a declaration must contain. Section 7C sets out the effect and duration of declarations of local connection. The modifications alter a requirement relating to age, because a person who has attained the age of 17 will be included in the canvass for the register of local government electors and, therefore, will not apply to be registered in the RYV. The modifications also remove irrelevant provision.
28. Section 9A requires EROs to take all necessary steps to maintain the RYV as set out in section 4 of the Bill. The modifications remove provision relating to specific steps that have to be taken, as these would be more onerous than needed. (For example, if the section was applied in full, an ERO could be required to send reminders and make inquiries at an address where an RYV canvass form was not returned, even where the ERO had no reason to believe that a young person resided at that address.)

29. Sections 9B and 9C set out procedures for anonymous registration, which are to be the same as those that apply for anonymous registration in the register of local government electors.

30. Section 10, as modified, will require EROs to conduct a canvass between 1 October 2013 to 10 March 2014 for the purpose of compiling the RYV, using the form set out in schedule 2. The modifications reflect that only a single canvass will be required, as the duty to maintain the RYV will cease from 1 January 2015, and that the canvass will not be concerned with whether electors remain on a register, but will be used to create the RYV. The omitted provision relates mainly to Northern Ireland and to overseas electors (who are not eligible to vote at local government elections). There is also omitted a provision that requires the canvass to be conducted by reference to residence on 15 October. Instead, it will be based simply on residence on the date the canvass form is received by the ERO (by virtue of section 10A as applied).

31. Section 10A requires EROs to determine all applications for registration in the RYV and provides for objections and for removal of entries in the RYV. The modifications provide that the date of application to the RYV is to be the date the canvass form is received by the Electoral Registration Officer, remove irrelevant provision relating to applications during canvass periods when a poll is pending and provide that objections to applications can be made by persons registered in the RYV, as well as persons registered in the local government electoral register. They also clarify that a reference to “voting age” is to be regarded as referring to voting age for the purposes of an independence referendum, i.e. 16 years of age.

32. Sections 13A and 13B set out arrangements for making alterations to the RYV, including specifying that in most cases such alterations must be made no later than five days before the referendum (ignoring weekends, bank holidays etc.) if they are to have effect for the referendum. After that date, and up to 9 pm on the day of the poll, the outcome of a registration appeal would still be actioned; also the ERO could correct a clerical error that was identified. The modifications mainly reflect the fact that the RYV will not be published and that there will only be one canvass to compile it; the modifications also omit irrelevant provision.

33. Section 13D provides an offence of knowingly providing an ERO with false information relating to the registration of electors on the RYV. The penalty for committing this offence may be imprisonment for up to 6 months or a fine of up to £5,000, or both. The omissions remove irrelevant provision about applications relating to absent voting, and subsections only relevant to Northern Ireland, England and Wales.

34. Sections 14 to 17, supplemented by section 59, relate to service declarations and their effect. Service declarations are a means for certain people to register to vote when, because of the nature of their jobs (or the jobs of their spouses or civil partners), they may not be considered
This document relates to the Scottish Independence Referendum (Franchise) Bill as amended at Stage 2 (SP Bill 24A)

resident at an address in the UK. The following people can make a service declaration for the purposes of registering in the RYV:

- members of the armed forces and their spouses or civil partners;
- some Crown servants posted outside the UK (see paragraph 45);
- employees of the British Council posted outside the UK;
- spouses or civil partners who are residing outside the UK to be with those Crown servants or British Council employees.

35. Section 52 enables deputies to act for an ERO in the discharge of registration duties and requires local authorities to assign persons to assist EROs in carrying out their functions under the Bill. Some of the omitted provision relates to powers of the Secretary of State to issue directions to EROs, which it is considered unnecessary to replicate for the purposes of this Bill. The remainder relates to England, Wales and Northern Ireland.

36. Sections 56 and 57 provide for how any registration appeal in relation to the RYV would be heard. Appeal lies to the sheriff, and then on any point of law to a court comprised of three Court of Session judges (the Registration Appeal Court). The omitted provisions relate to appeals relating to absent voting applications and other material relating to the conduct of a poll, rather than compilation of a register of voters.

37. Section 59 is an interpretative provision relating to “members of the forces”. The omitted provisions relate to the duties of UK Government departments and the British Council in relation to such persons, which it is unnecessary to apply given the timespan of the RYV.

38. Section 62 provides that it is an offence for a person to make a declaration of local connection, to make or attest a service declaration, or to make a declaration for anonymous registration purposes when not entitled to do so, or when the person knows that it contains false information. A person committing such an offence is liable on summary conviction to a fine of up to £5,000. Subsection (2), which is relevant only to local government elections, is omitted.

39. Section 63 provides that EROs and their deputies who breach their duties under the Bill without reasonable cause are liable on summary conviction to a fine of up to £5,000. The omitted provisions relate to duties of other persons, and are therefore irrelevant for the purposes of this Bill.

Schedule 1, Part 3

40. Part 3 applies (with modifications where appropriate) regulations from the Representation of the People (Scotland) Regulations 2001.1 As with Part 2, in the main the modifications are made to adapt the wording of provision to the context of the RYV, rather than to make substantive changes to the arrangements that the regulations make. Omissions mainly relate to irrelevant material, such as provision that is relevant only to parliamentary or local government

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1 S.I. 2001/497. The Regulations have been extensively amended. S.I. 2002/1872 and 2007/925 each make a large number of amendments that are significant for regulations that this Bill applies; there are also relevant amendments in S.I. 2005/2114, 2006/834 and S.I. 2009/725.
elections, or the registers that relate to them (for example, paragraphs (6) to (10) of regulation 26 are omitted because they relate to the full and edited versions of those registers, but there will only be one version of the RYV, and it will not be published).

41. Regulation 4 requires the ERO to provide registration forms free of charge to any persons who intend to use them in connection with an independence referendum.

42. Regulations 5 and 6 clarify that where an application, notice or objection requires to be made in writing, this includes transmitting the text electronically (as long as it is legible and is capable of later being used for reference) and that electronic signatures can be used.

43. Regulation 8 clarifies that, where time periods are referred to in other regulations, Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday and Scottish bank holidays are ignored.

44. Regulation 11 provides that damaging or removing registration notices is an offence, and on conviction a person can be fined up to £1,000.

45. Regulations 14 to 17 relate to service declarations. Regulation 14 provides that Crown servants who are posted outside the UK and whose salaries are paid in full by Parliament qualify to register by virtue of a service qualification, as members of the forces do. Regulations 15 and 16 set out the information that a service declaration must contain and that it must be transmitted to the ERO for the area containing the address specified in the declaration. Regulation 17 requires the ERO to confirm that a person’s service declaration is acceptable, or to return the declaration to the applicant with reasons for its rejection.

46. Regulation 23 provides that an ERO may require any person to provide information that is needed to enable the ERO to maintain the RYV. It is an offence for a person to fail to provide such information and they would be liable to a fine of up to £1,000.

47. Regulation 24 gives an ERO the power to require a person to produce evidence of their age or nationality for registration purposes if the ERO has doubts about these matters. The ERO may require the following as evidence:

- a birth certificate or statutory declaration of the person’s date of birth;
- a certificate of nationalisation;
- a document showing that the person has become a Commonwealth citizen;
- a statutory declaration that the person is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of the EU.

48. If a fee is payable in order for one of the declarations above to be made, this is paid by the ERO and treated as part of his or her registration expenses which are reimbursed by the Scottish Ministers under section 10 of the Bill. The arrangements in this regulation do not apply to applications involving service declarations. The omission of paragraphs (4) and (4A) prevents a declaration being made available for inspection at the ERO’s office, to maintain the
confidentiality of the RYV. That is in line with the approach taken to declarations relating to the parliamentary and local government registers, where a person either has or has sought an anonymous entry.

49. Regulation 26 sets out the information that an application for registration in the RYV must contain. This includes the applicant’s full name, address, date of birth and nationality. Applications must be written, signed and dated.

50. Regulations 27 to 31A set out the arrangements for making objections to registration and applications to be registered. They also set out how these are to be handled. An objection that is invalid or of no merit may be rejected without a hearing and the application allowed. Regulation 28 is not applied, with the effect that applications and objections are not made available for inspection. This is as a result of the RYV not being published. Regulation 27(1)(d) is modified to ensure that an objection can be made by a person registered in the RYV or the register of local government electors.

51. Regulations 31B to 31F relate to procedures for determining a person’s entitlement to register in the RYV, including decisions that a person has ceased to satisfy the conditions for registration. Regulation 31E(3) is omitted so that the list that EROs must keep of registrations that are under review is not made available for inspection at the ERO’s office.

52. Regulations 31G to 31J relate to determination of applications for anonymous registration, including the supporting evidence and information that is required for such applications. These will operate in the same way as an application for an anonymous registration in the register of local government electors. A reason for the application must be given, with evidence of a relevant court order or a certification by an appropriate person (such as a chief social work officer) that the safety of the applicant or a member of their household would be at risk if the RYV contained the applicant’s name or address.

53. Regulation 32 makes provision regarding registration appeals, including the timescales for appeal and the steps an ERO must take in the event of an appeal.

54. Regulation 32A enables representations regarding clerical errors to be made orally or in writing. It places a duty on presiding officers at a referendum to communicate any representations made to them in a polling station to the relevant ERO.

55. Regulation 35 authorises an ERO to inspect local authority records and registration records (of births, marriages and deaths) for the purposes of carrying out registration duties. This would, for example, enable an ERO to inspect records held by a council for education purposes to identify persons who appear to be eligible to register in the RYV.

56. Regulation 36 provides that an ERO must send a copy of a notice making an alteration to the RYV to any person affected by it (unless the person has died). Paragraphs (1), (2)(a) and (2)(aa) are omitted, to remove a requirement to publish these notices, make copies available for inspection, and supply copies of notices to particular groups of people.
57. Regulation 36A requires EROs to take reasonable steps to bring to the attention of the relevant presiding officer any notices relating to alterations to the RYV that are issued on the day of a poll.

58. Regulation 37 requires an ERO who has been told of a change of address to notify the address to another ERO, if the new address is in that officer’s area.

59. Regulation 40 provides for cases where the RYV need not contain a qualifying address. This may cover a situation in which a person has given an address in an electoral area for the purposes of a declaration of local connection or a service declaration, but is not actually resident there. Regulation 41 provides that no address is shown for such a person and instead the person appears at the end of the appropriate part of the register. The omission relates to overseas electors.

60. Regulation 41A provides that if a person is entered anonymously on the RYV, their entry consists only of their voter number and the letter “N”.

61. Regulation 45A requires an ERO to keep a record of anonymous entries in the RYV. It prescribes that each entry in this record must include the full name of the person to whom the entry relates, their voter number, their qualifying address, and the date from which the anonymous entry took effect. If the person has been granted a postal vote, the record must also include the address to which the postal ballot paper should be sent.

62. Regulations 45B and 45C set out the duties of EROs and their staff in relation to the record of anonymous entries. It prohibits them from supplying, disclosing or making use of information contained in that record, except in accordance with an enactment or to comply with a court order or tribunal order. The record must be provided to a counting officer at an independence referendum, though the same prohibitions apply to ensure that the record is only supplied, disclosed or used for referendum purposes.

63. Regulation 45F requires an ERO to issue a certificate of anonymous registration to a person entered in the record of anonymous entries. The omission relates to the duration of such a certificate, which is not relevant given the timespan of the RYV.

64. Regulation 115 provides that a person is guilty of an offence if a person contravenes the restrictions under regulation 45C on supply, disclosure or use of information contained in the record of anonymous entries or fails to take appropriate steps to prevent a person they are responsible for supervising from failing to comply with that provision. A person guilty of such an offence is liable on summary conviction to a fine of up to £5,000.

Schedule 1, Part 4

65. Part 4 applies any act of sederunt that determines the composition of the Registration Appeal Court.
Schedule 2

66. Schedule 2 provides the Young Voter Registration form to be used to obtain details of young people during the canvass that the Bill requires. These details will be used to make entries in the RYV, though they will not be the only means by which an application can be made.

Table of Provisions

67. The following table takes some of the main areas that the Bill covers and shows the relationship between those elements of the Bill, provisions applied from the 1983 Act and provisions applied from the Representation of the People (Scotland) Regulations 2001. Some provisions relate to more than one subject; not all provisions are covered.

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I understand that you have expressed some concerns about the effect of amendment 7 to the Scottish Independence Referendum (Franchise) Bill, tabled by the Scottish Government and considered and agreed to by the Committee at its Stage 2 session on 6 June. As you may be aware, I undertook at that session to set out for you the current position and rationale behind the Scottish Government’s approach on this issue, and to report back to the Referendum Bill Committee ahead of Stage 3. Stage 3 is scheduled to take place in the week beginning 24 June.

Section 7B of the Representation of the People Act 1983 sets out the circumstances in which those applying to the local government registers can register using a declaration of local connection (which is made using a form available from Electoral Registration Officers). The circumstances covered are those people in mental hospitals, prisoners on remand and homeless people (including travellers). Section 7 of the Scottish Independence Referendum (Franchise) Bill as introduced would provide an additional ground for making a declaration of local connection for the purposes of the Register of Young Voters (“RYV”) by providing that any young person aged under 17 applying to the register in the RYV who did not wish to disclose their current address could use an address in Scotland at which they previously resided to register.

As I said when I gave evidence to the Committee on Thursday, the Scottish Government’s general approach to this Bill and policy underpinning it has been to replicate current registration practice for the purposes of the RYV as far as possible, while balancing that with the need to treat data on those young people sensitively, and recognising that they might have particular needs.

As the policy memorandum and explanatory notes accompanying the Bill made clear, the additional ground for those applying to register in the RYV was intended to be used by vulnerable young people, for example, those for whom the disclosure of their address, even to a very limited group of people (the RYV will not of course by published) could pose a risk.

However, as the original provision did not explicitly state who would be eligible to make such a declaration, the Scottish Government was concerned that the original provision could theoretically have allowed any young person under 17 living outside Scotland to apply to the Register of Young Voters using a previous address in Scotland. Scottish Government amendments 7 and 8 therefore put beyond doubt the purpose of the provision set out in section 7 of the Bill - which is to protect particularly vulnerable young people - by setting out, in broad terms, the circumstances in which such young people will be entitled to make such a declaration, so that the provision can fulfil its original intention.

As the amendments make clear, the two groups of young people who will be able to utilise this facility are young people being ‘looked after’ by a local authority, and those kept in secure accommodation (mainly in care situations).

I understand that you are concerned that there may be other young people in other circumstances who may have reasons for wanting to register without disclosing their address, for example those fleeing from a situation of domestic abuse, possibly with a parent. It is of course possible that such young people would still be able to register using a...
declaration of local connection if the Electoral Registration Officer deemed them to be homeless.

Of course this situation is not unique to young people nor to the arrangements for the Referendum. Adults may currently wish not to disclose their address because of fears for their personal safety. There is a different route open to young people and their parent in such a situation where their security may be at risk. Young people in that and other situations which may affect their personal safety will still be eligible to apply to register to vote completely anonymously, as some individuals on the local government registers are already entitled to do. Registration by such means would provide even stronger protection than making a declaration of local connection, as it would mean that neither a person’s name or address would appear on the Register of Young Voters. Depending on personal circumstances, anonymous registration is available to every young person, and their parent.

The process of anonymous registration is well established, provided for by section 9B of the Representation of the People Act 1983, and regulations 31G to 31J and 45A to 45G of the Representation of the People (Scotland) Regulations 2001. The relevant parts of these are applied, so far as relevant, for the purposes of registration in the RYV. Anonymous registration is expressly linked to a safety test, i.e. the Electoral Registration Officer needs to be satisfied that the safety of somebody in the household would be at risk. To register anonymously, a person has to provide evidence of one of two types: that they, or a member of their household, is protected by one of several listed court orders giving protection from harassment; or that a senior police officer, chief social work officer or other listed person of similar type certifies that someone in the household’s safety would be at risk if they were registered showing their name or address.

I agree that it is crucial that individuals should know that these routes are open to them if they have any concerns about the security of the information they provide, or their (or anybody in their household’s) personal safety. The Scottish Government is therefore considering whether to bring forward at Stage 3 consideration of the Bill an amendment to the information provided on the back of the young voter registration form (set out in schedule 2 to the Bill). In addition, we have agreed with Electoral Registration Officers the need for them to engage actively with local authorities and other bodies with responsibilities of care to promote awareness of these arrangements.

I hope that this letter addresses any concerns you have and look forward to your response.

12 June 2013
Vulnerable Young People

Thank you for your letter dated 12 June setting out the Scottish Government’s view concerning the registration options for vulnerable young people for the Scottish Independence Referendum in 2014.

I would like to take this opportunity to thank you for your constructive engagement with the concerns I have expressed in this regard. We share the same aim: to ensure that the largest possible share of those young people who will be eligible to vote in the Referendum will be able to register to do so safely, and to remove any barriers to young people exercising their right to vote.

Declaration of local connection

I welcomed your clarification to the Committee as to the nature of the Scottish Government’s concerns regarding the widely-drawn new ground for registration by declaration of local connection, which was included in s. 7 of the Bill as introduced. Your letter appears to imply that the purpose and effect of amendments 7 and 8 was to clarify the meaning of s. 7 in order to ensure that the provision delivers the policy intention behind it.

However, this was the first time it was suggested that the policy intention of this provision was limited to looked after children and those in secure accommodation. As you acknowledge in the letter, there are children and young people who are vulnerable but are not looked after, and those potential young voters would now be unable to register by way of a declaration of local connection.

Anonymous registration

I agree that anonymous registration provides a greater level of protection than registration by declaration of local connection. However, there are some questions as to the availability and practical accessibility of that process, even for adult prospective voters.

Regulations 31I and 31J of the Representation of the People (Scotland) Regulations 2001 (SSI 2001 No. 497) require either of two types of evidence in support of the application to the Electoral Registration Officer (ERO) for anonymous registration – one (or more) of a list of specified orders or ‘injunctions’ in respect of the applicant or another person in their household, or ‘attestation’ by a ‘qualified officer’.

Only two of the qualifying orders listed in reg. 31I are available in Scotland (‘non-harassment order’ under s. 8 (5)(b)(ii) of the Protection from...
Harassment Act 1997, and a post-conviction ‘non-harassment order’ under s. 234A of the Criminal Procedure (Scotland) Act 1995. Interdicts obtained under s. 8 (5)(b)(i) of the 1997 Act are not listed, and nor are common law interdicts which are frequently granted by the Scottish courts. This problem with the anonymous registration process has been highlighted by Scottish Women’s Aid and was raised directly with the Advocate General for Scotland by Dr Eilidh Whiteford MP last year (‘Action call for victims of abuse ‘afraid to vote’, The Sun, 24 June 2012, http://www.snp.org/media-centre/news/2012/jun/action-call-victims-abuse-afraid-vote).

I was pleased to learn that the Scottish Office has now confirmed that the range of Scottish orders listed in the relevant regulations will be extended by Statutory Instrument shortly. I trust that your officials are in contact with the Scottish Office to ensure that this amendment is enacted swiftly, and that practice guidance and information made available to the public is updated in time for registration for the Referendum.

For obvious reasons, no orders available specifically in respect of children are currently included in that list (although some may be in place in respect of ‘attainers’). The need for inclusion of one such order was raised in oral evidence to the Committee by Dr Ken Macdonald from the Information Commissioner’s Office (ICO), who called for non-disclosure orders made by the sheriff in order to withhold the address of a child from a relevant person in the context of a children’s hearing to be included. The very welcome enfranchisement of 16-17 year-olds makes this a much more pertinent issue in respect of voter registration and I support ICO’s proposal. I understand that 1,791 non-disclosure orders made by children’s hearings and sheriffs are currently in force, 146 of which are in respect of 14-17 year-olds.

In terms of the attestation route, the ‘qualified officer’ empowered to certify that the prospective voter would be at risk if they appeared on the electoral register by name is most likely to be either a police officer of the rank of Superintendent or above or a local authority’s Chief Social Work Officer (reg. 31J). This assumes that prospective applicants have contact with either police or social work, which a proportion of the relevant population will do, but others will not. A further concern that Dr Whiteford and others have expressed is that this puts those who are already in a vulnerable position through yet another process of ‘scrutiny’ during which they may be required to recount their experiences of abuse. This is likely to be a barrier to adult prospective applicants’ proceeding with anonymous registration, and I would suggest that this will be at least as likely be the case for vulnerable children and young people.

I would reiterate that we are pursuing the same objective, which is to empower young people to participate in the debate about Scotland’s constitutional future, and to play their role in taking that decision. In this spirit, I would urge you to consider again any alternative courses of action which would address the concerns raised above. These could include a combination of the following measures, if they are within the Scottish Parliament’s competence and which you may consider to be practicable:
• amendments to s. 7 of the Bill in order to reverse the limitation of its application to looked after children;
• (if reversing amendment 7) amendments to s. 7 to restrict its application by reference to (say) ‘ordinary residence’ or a specified maximum period of time lapsed since the registrant was last resident in Scotland;
• amendments to reg. 31I to add non-disclosure orders;
• amendments to reg. 31J to add other specified persons as ‘qualified officer’ for the purposes of ‘attestation’, e.g. head teachers and the Principal Reporter.

21 June 2013
Thank you for your letter of 21 June.

Perhaps it would be helpful if I set out a little more context to the Scottish Government’s position on this issue. As I said in my letter of 12 June, the Scottish Government’s general approach to this Bill and the policy underpinning it has been to replicate current registration practice for the purposes of the Register of Young Voters as far as possible, while balancing that with the need to treat data on those young people sensitively, and recognising that they might have particular needs. That is an important principle, as the efficacy of the registration process will play a large part in ensuring that the referendum is, and is seen to be, run to the highest standards of fairness and transparency.

Paragraphs 23 to 26 of the policy memorandum which accompanied the Bill as introduced, and which dealt with the registration of vulnerable young people, recognised this approach. It acknowledged that, despite the specific restrictions on access to the Register and the data contained in it, there would still be circumstances in which, to ensure utmost security, a young person should be able to register without disclosing their current address. The examples given were of young people living with foster carers, or young people without fixed addresses. That section also made it clear that some young people might be able to register completely anonymously, but that they would need to provide evidence that there was a good reason for allowing anonymity.

As you know, the Scottish Government brought forward amendments for consideration at Stage 2 to clarify the purpose of the provision set out in section 7 of the Bill by setting out which young people would be entitled to use an additional ground for making a declaration of local connection. The aim of those amendments was to address our concern that the original provision could be open to misuse by individuals living outside of Scotland, who were not vulnerable and who were not Scottish-resident, while making sure that young people with a connection to Scotland and who were vulnerable would still be able to register by making such a declaration.

The declaration of local connection is likely mainly to be used by young people living at one Scottish address who wish to register using a different Scottish address, but there may be occasions where the current address is not in Scotland. However, the provision cannot be available to all young people, regardless of their personal circumstances, because of the potential misuse. I am not prepared therefore to reverse the amendments made to the Bill at Stage 2. Neither would it be practical to reverse the amendments and simply add an ‘ordinary residence’ qualification or impose an arbitrary time limit. An ‘ordinary residence’ qualification may disenfranchise some vulnerable young people, while a time limit runs that risk while also opening up some potential for misuse as just described.

As you say in your letter, we share the same aim: to ensure that the largest number of young people possible register to vote in the referendum and that they are able to do that safely. We have taken great care in developing our proposals to ensure that the registration processes are robust and appropriate. In order to do that, we have listened to and taken onboard external expert advice in relation to both electoral issues and child protection issues, and will continue to do so, including from yourself. You mention in your letter the Scotland Office’s plans to extend by Order the range of Scottish court orders which would entitle an individual to apply to register anonymously. I understand that this Order will be laid
before the UK Parliament shortly, and that the provisions are likely to come into force before the end of this year. I can confirm that the Scottish Government will seek to apply these updated arrangements to the Register of Young Voters, either through an Order under the Scottish Independence Referendum (Franchise) Act (if passed by the Scottish Parliament), or through the main Scottish Independence Referendum Bill. Any extension to the list of orders will require very careful consideration, including with Electoral Registration Officers. The Scottish Government will consider this issue further.

As I set out in my letter of 20 June, the Scottish Government has tabled an amendment to the back of the Young Voter Registration Form to make it clear that other registration options may be available to young people if they are concerned that inclusion on the Register of Young Voters could affect their personal safety, or they do not wish to register using their current address. The text of the amendment directs individuals to discuss the possible options with their Electoral Registration Officer.

As regards your other concerns about the operation of the anonymous registration process, as you point out the arguments you put forward apply to adults as much as they apply to younger people. The Scottish Government will consider these further, but will have to give extremely careful consideration as to whether any changes going beyond those already planned by the UK Government would be appropriate, both in terms of the integrity of the registration system and from the risk that differences in requirements between particular registers may cause confusion and unintended difficulties.

I am sending a copy of this letter to the Scottish Parliament’s Referendum Bill Committee.

25 June 2013
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

Scottish Government additional information on Financial Memorandum - revised estimates

1. Scottish Government officials gave evidence to the Finance Committee on the estimated costs arising from the Scottish Independence Referendum (Franchise) Bill on 21 March and submitted a supplementary note to the Committee on 23 April. This further note provides the Committee with revised estimates in two areas ahead of Stage 3.

Changes to Electoral Management Software (EMS)

2. The Financial Memorandum submitted to Parliament with the Bill on 11 March 2013 estimated the cost of adapting the electoral management software (to ensure that the systems in place are able to implement the provisions of the Franchise Bill) as around £240,000. The Memorandum explained that this estimate was based on initial quotes from existing software suppliers in response to a specification which reflected the requirements of the Bill as drafted.

3. In the note to the Finance Committee on 23 April the Government explained that we had written to software suppliers for revised quotes for any necessary changes to electoral software as a result of the provisions in the Bill. Prior to seeking revised quotes Government officials held further discussions with electoral registration officers (EROs) and others to examine the detail of the specification. These discussions considered ways to ensure that the system was as easy to use as possible (from the young voters’ perspective) and produced as high a return and therefore voter registration level as possible. Revised quotes have now been received in response to the enhanced specification developed in discussion with EROs and others.

4. As a result of these discussions with EROs, the specification was amended, among other things, to include provision for information received by text, e-mail or telephone to be processed and included on the young voter register. EROs confirm that this facility is likely to play an important role in making registration easier for some voters and therefore increasing overall registration rates.

5. These revised quotes now suggest an overall estimated cost of around £300,000. EROs have begun detailed implementation discussions with the two commercial software providers who between them have a contract with 12 of the EROs in Scotland. The remaining three EROs develop and maintain their own software. The revised systems need to have been tested and be operational by the start of the canvass period in October 2013.

Young Voter Registration Forms - Cost of reminders
6. The Financial Memorandum estimated the cost of sending reminders to those who fail to complete the Young Voter Registration forms as being approximately £6,000. The Finance Committee sought further information on how this figure was calculated.

7. The Government’s note of 23 April said that we would also be seeking further cost information from printing companies to allow us to review the estimated costs associated with the sending of reminders to those who had not returned the young voter registration form. The note set out a number of reasons why, after further discussions with electoral registration officers and others, it is likely that the assumptions on which we based our original estimates may have significantly overestimated the number of households who are likely to need to be issued with and return by post as young voter registration reminder form. In addition we have also been told by EROs that many of them are likely to remind those who have not returned the form by telephone rather than post.

8. However, on the original assumptions contained in the Financial Memorandum, a revised estimate for the reminder process would be:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printing Forms</td>
<td>£800</td>
</tr>
<tr>
<td>Envelopes</td>
<td>£900</td>
</tr>
<tr>
<td>Postage</td>
<td>£20,500</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>£22,200</strong></td>
</tr>
</tbody>
</table>

This compares to the figure of £6,000 in the Financial Memorandum but, for the reasons set out above and in our note of 23 April, the actual cost is likely to be lower.

**Revised Total of Estimated Costs**

9. The revised estimates for EMS development and sending reminders out as described above suggest that the estimated total cost associated with the provisions of the Scottish Independence Referendum (Franchise) Bill are now up to £434,000 rather than the £358,000 included in the Financial Memorandum.

10. The cost of the referendum will be the costs associated with the Franchise Bill and those arising from the Scottish Independence Referendum Bill. The Financial Memorandum for the Referendum Bill estimated the total cost of that Bill at £13,350,000. In certain areas (e.g. the cost of campaign mailshots) the Memorandum contained a range of possible costs although the top end of each range was used for the total figure). The Finance Committee considered the Memorandum and took evidence from stakeholders and Government officials before confirming to the Referendum Bill Committee that it will give no further consideration to the Memorandum. The overall totals in the two Financial Memorandums suggest
an estimated total cost of £13,708,000. Given the ranges contained in the Referendum Bill Financial Memorandum and the assumptions discussed above we consider that, even with the estimated increase set out in paragraph 9, the overall cost is likely to remain within the overall figure of £13.7m.

**Funding Mechanism**

11. The Financial Memorandum says at Paragraph 9: “The costs of electoral registration in Scotland are normally met through local authority budgets. For the purposes of the 2014 Scottish Independence Referendum, the Scottish Government will reimburse EROs for any additional costs associated with extending the franchise to 16 and 17 year olds. The Government will reimburse EROs through payments to the relevant local authority.

Scottish Government Elections Team
11 June 2013
Scottish Independence Referendum (Franchise) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 15  Schedules 1 and 2
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

Alison McInnes
1 In section 2, page 2, line 3, after <enactment> insert <other than section 3 of the 1983 Act>

Patrick Harvie
4 In section 2, page 2, leave out lines 5 and 6

Section 3

Alison McInnes
2 In section 3, page 2, line 10, at end insert <, where that sentence is for a term of four years or more.>

Alison McInnes
3 In section 3, page 2, line 10, at end insert <, where that sentence is for a term of more than six months.>

Patrick Harvie
5 Leave out section 3

After section 3

Margo MacDonald
7 After section 3, insert—

<Sentencing guidelines

(1) The Scottish Sentencing Council must within three months of the day this Act comes into force submit to the High Court of Justiciary for approval sentencing guidelines setting out—

(a) how criminal courts are to determine the sentence of a convicted person who is being sentenced before 18 September 2014;
(b) the consideration that should be given to the deprivation of the opportunity to vote in an independence referendum in determining the sentence.

(2) For the purposes of subsection (1), where the Council has not been established by the day this Act comes into force the Scottish Law Commission must submit such guidelines.

(3) Where the Council or, as the case may be, the Commission submits sentencing guidelines under subsection (1) to the High Court for approval, the Court may—
   (a) approve the proposed guidelines—
       (i) in whole or in part,
       (ii) with or without modifications, or
   (b) reject the proposed guidelines, in whole or in part.>

Schedule 2

Nicola Sturgeon

6 In schedule 2, page 21, line 14, at end insert—
<If there are any concerns that inclusion in the Register of Young Voters may affect the personal safety of the young voter, or they do not wish to register using their current address, other registration options may be available. They may be able to use a previous address or to register anonymously. Please contact us to discuss.>
Scottish Independence Referendum (Franchise) Bill

Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. In this case, the information provided consists solely of the list of groupings (that is, the order in which the amendments will be debated). The text of the amendments set out in the order in which they will be debated is not attached on this occasion as the debating order is the same as the order in which the amendments appear in the Marshalled List.

Groupings of amendments

Note: The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings.

Group 1: Eligibility of convicted prisoners to vote
1, 4, 2, 3, 5, 7

Group 2: Register of young voters: canvass form
6

Debate to end no later than 30 minutes after proceedings begin
EXTRACT FROM THE MINUTES OF PROCEEDINGS

Vol. 3, No. 21 Session 4

Meeting of the Parliament

Thursday 27 June 2013

Note: (DT) signifies a decision taken at Decision Time.

Business Motion: Joe FitzPatrick, on behalf of the Parliamentary Bureau, moved S4M-07171—that the Parliament agrees that, during stage 3 of the Scottish Independence Referendum (Franchise) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 30 minutes.

The motion was agreed to.

Scottish Independence Referendum (Franchise) Bill - Stage 3: The Bill was considered at Stage 3.

Amendment 6 was agreed to (without division).

The following amendments were disagreed to (by division)—

1 (For 8, Against 105, Abstentions 0)
4 (For 8, Against 105, Abstentions 0)
2 (For 8, Against 106, Abstentions 0)
3 (For 8, Against 106, Abstentions 0)
5 (For 8, Against 107, Abstentions 0)
7 (For 8, Against 107, Abstentions 0)

The Minister for Parliamentary Business moved a motion without notice under Rule 9.8.5A to extend the time limit for amendments to 40 minutes. The motion was agreed to. The Deputy Presiding Officer made a consequential 10 minute alteration to the time of Decision Time under Rule 9.8.5B and notified members accordingly.

Scottish Independence Referendum (Franchise) Bill: The Deputy First Minister (Government Strategy and the Constitution) and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon) moved S4M-07109—that the Parliament agrees that the Scottish Independence Referendum (Franchise) Bill be passed.

After debate, the motion was agreed to (DT) by division: For 103, Against 12, Abstentions 0).
14:15

On resuming—

Business Motion

The Deputy Presiding Officer (Elaine Smith): Good afternoon. The first item of business this afternoon is consideration of business motion S4M-07171, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, which sets out a timetable for stage 3 consideration of the Scottish Independence Referendum (Franchise) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Scottish Independence Referendum (Franchise) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

- Groups 1 and 2 30 minutes.—[Joe FitzPatrick.]

Motion agreed to.
Scottish Independence Referendum (Franchise) Bill: Stage 3

14:58

The Deputy Presiding Officer (Elaine Smith): The next item of business is stage 3 proceedings on the Scottish Independence Referendum (Franchise) Bill. In dealing with the amendments, members should have: the bill as amended at stage 2, SP bill 24A-revised; the marshalled list, SP bill 24A-ML; and the groupings, SP bill 24A-G.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds; thereafter, I will allow a voting period of one minute for the first division after a debate.

Section 2—Those entitled to vote in an independence referendum

The Deputy Presiding Officer: Group 1 is on the eligibility of convicted prisoners to vote. Amendment 1, in the name of Alison McInnes, is grouped with amendments 4, 2, 3, 5 and 7.

Alison McInnes (North East Scotland) (LD): My amendments in the group offer two alternative options, which look to allow some prisoners to vote in the referendum.

The European Court of Human Rights has ruled that the United Kingdom’s blanket ban on prisoners voting in elections is contrary to the European convention on human rights. Only four other countries in Europe—Armenia, Bulgaria, Estonia and Russia—impose a blanket ban. The Joint Committee on the Draft Voting Eligibility (Prisoners) Bill at Westminster has confirmed that the draft bill would apply to national and local elections and local referendums. Far from being a progressive beacon on this issue, Scotland is well behind the curve.

There is clear and growing support for giving at least some prisoners the vote from those who have worked closely with our prison and rehabilitation services and from human rights associations. The Scottish Youth Parliament and the Scottish Trades Union Congress have added their voice to calls to amend the Scottish Independence Referendum (Franchise) Bill.

More important than all that, though, is that it is the right thing to do. We send people to prison as punishment, but we can measure success only by considering the way in which offenders re-enter the community. Therefore, surely prison is about rehabilitation. It is about re-engaging prisoners with society, preparing them to take on the responsibilities of citizenship and giving them the tools to make a meaningful contribution to the community.

Allowing some prisoners to vote on the future of our country sends a powerful message that we are serious about giving them a role in society upon release. If we keep the blanket ban, we risk isolating them still further.

Amendment 1 would pave the way for the other substantive amendments in the group, and the two direct alternatives—amendments 2 and 3. Amendment 2 would give the vote to prisoners serving less than four years, reflecting the current law, which makes a distinction between short-term and long-term sentences, with four years being the dividing line.

I acknowledge that some members who might be open to the general principle of opening up the vote to some prisoners would be uncomfortable with the four-year cut-off. Amendment 3 is a direct alternative to amendment 2 that would likely grant the vote to around 400 prisoners, specifically those serving very short sentences of six months or less.

I would welcome support for the amendments.

I move amendment 1.

Patrick Harvie (Glasgow) (Green): I am glad that we have the opportunity to return to this subject, which was debated at some length at stage 2, at which stage the Referendum (Scotland) Bill Committee considered a range of options including allowing prisoners to vote based on the length of their service; allowing prisoners to vote who were coming to the end of their prison term; allowing prisoners to vote based on the type of offence that they have committed; and—what I would call the full franchise option—simply repealing the ban on prisoners voting altogether.

Now we have the opportunity to reconsider some of those options. Alison McInnes’s amendments 2 and 3 specify length of sentence. My amendment 4 returns to the argument for a repeal of the ban on prisoners voting altogether. Margo MacDonald’s amendment 7 seeks to address the issue through sentencing guidelines.

I would like the chamber to recognise that this is not simply the whim of a small number of MSPs. I am pretty sure that only a small number of MSPs will vote for any of these amendments and I do not expect suddenly to change everyone’s mind, but it is important that these arguments are put on the record because of the breadth of non-parliamentary support that they have attracted.

We have had evidence from the Howard League for Penal Reform, the Prison Reform Trust, Sacro and a range of academics, such as Professors Fergus McNeill, Mike Nellis and Alec Spencer, as
well as written evidence from the Quakers. Although at its most recent general assembly the Church of Scotland was not able to adopt a formal position, the convener of the church and society council continues to support the argument and intends to return to the debate within the church later in the year.

It is important to recognise the arguments that have been put on a point of principle: what is prison for? Generally we expect that there are three purposes of prison: protecting society, punishing offenders and rehabilitation. Which of those purposes is served by the blanket ban on prisoners voting?

I defy anyone to tell me that it is genuinely a source of punishment and that the inability to vote in elections or in referendums is genuinely perceived as punishment by offenders. Does it protect society? It is inconceivable that an offender poses a greater threat to society when they are in prison simply by virtue of having a vote.

The third purpose of prison is rehabilitation, which can be served only by underlining to convicted prisoners that they are going to return to society and we expect them to behave as a part of society—by underlining the importance of citizenship and the understanding that democratic participation is a right. The Prison Reform Trust says:

“We believe that there is a clear and unambiguous case for reform. This rests on the conviction that voting is not a privilege. It is a basic human right. It is certainly not a reward to be granted to those whom the Government has judged morally decent.”

The trust points out that “The UK is out of step with all but five member states of the Council of Europe, as well as with the majority of developed nations throughout the world.”

The position in the UK and in Scotland is not a normal one; it is not a mainstream one. As well as the other organisations that I have mentioned, the Scottish Trades Union Congress has written to members to argue against a restrictive interpretation of the right to vote. There is a clear case for reform, and for sending the message that prisoners are expected to return to society as participants in society, including in the democratic process.

I find it bizarre that the Government continues to be determined to resist change on this matter despite a theoretical commitment to incorporating the European convention on human rights at the heart of a written constitution for Scotland. If the Government wants to put human rights at the heart of a written constitution for Scotland—which I would welcome—it has implicitly accepted that convicted prisoners will have the right to vote in elections. If that is the case, there is no rational argument for a more restrictive approach to referendum franchise than to electoral franchise. I look forward to the Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities responding to that argument—if Mr Swinney has not distracted her too much in the past few moments.

The Deputy Presiding Officer: Contributions must be shorter or I will be unable to call everyone who wishes to speak.

Margo MacDonald (Lothian) (Ind): I pick up where Patrick Harvie left off. If we are serious about this being an advanced legislature and our body of law being better than we have had, we must consider what improvements we would make—certainly from prisoners’ point of view—we were we to resist banning prisoners from voting.

This situation may be the result of a peculiar shyness on the part of members. Most members in here are quite bold—we are new and cutting edge—and yet, on this matter, such members automatically say, “Oh no, we couldn’t give prisoners the vote. The public wouldn’t like that.”

I have not spoken to a huge number of people but I can say, hand on heart, that everyone I have spoken to about this agrees on the middle road, if you like. They do not want to think of axe murderers and people who have committed dreadful crimes being allowed to vote, because that is taking part in society in a privileged way, and such prisoners have forfeited that privilege. However, they think it too much to deprive people of the vote who are in prison for less time and for less serious crimes against society. Those prisoners should be encouraged to take part in society and to see the error of their ways.

We will be falling down on the objectives that we have set ourselves if we do not consider this issue very seriously. Remember that we do not need to take all the decisions ourselves—we are asking for guidelines. I am prepared to trust the Scottish Law Commission to come up with guidelines that judges and the general public can live with.

The Deputy Presiding Officer: I ask for brief contributions, please.

Stewart Maxwell (West Scotland) (SNP): Fundamentally, there are two arguments here. I still remain unconvinced, even though those who lodged the amendments made those arguments very eloquently.

On the legal position, the Law Society of Scotland said in a letter to us:

“Prisoner voting cases have all been based on alleged breaches of ECHR Article 3 Protocol 1 (A3P1) which states,

“The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under
conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.""

That is the important point. The Law Society went on to say:

“A3P1 does not govern voting in referenda but only in elections for the ‘choice of the legislature’. Accordingly the European Court of Human Rights jurisprudence relating to prisoner voting rights ... do not apply to the referendum.”

I accept that there are two points. There is also the principle, which Patrick Harvie spoke about. However, when someone is found guilty of a crime, judges have a decision to make: they have to decide on the length of the sentence and they have to decide whether it should be a custodial or a non-custodial sentence. In making that decision, judges will take into account a number of factors, including the impact of a custodial sentence on the individual and, of course, their family. They realise that imposing a custodial sentence has an impact in a number of ways.

Patrick Harvie said that voting is a right, not a privilege. That is an interesting use of words. The fact is that we take away a number of rights from individuals when we sentence them to a custodial sentence: we remove the right to liberty, the right to a family life and the right to vote, to name but a few. The issue is not that voting is a privilege—it is a right; and as a society, when we impose custodial sentences, we remove from individuals not just their right to vote but their right to liberty and their right to a family life, for example. Judges and sheriffs are well aware of the impact of imposing a custodial sentence, and I prefer to leave the decision to them.

When it comes to the principle, the dividing line is not between the rights of short-term prisoners and the rights of long-term prisoners; it is between those who are in prison and those who are not in prison.

The Deputy Presiding Officer: I must hurry you along.

Stewart Maxwell: I believe that we have got the position just about right as the bill stands, and I urge the chamber to reject the amendments in this group.

James Kelly (Rutherglen) (Lab): I draw members’ attention to my entry in the register of members’ interests. My brother is Tony Kelly, who is a practising solicitor.

I oppose all the amendments in the group. Those who are in favour of extending the franchise to some groups of prisoners advance the argument that a ban achieves no purpose and punishes people from deprived and disadvantaged communities. Some areas of my constituency are deprived and disadvantaged. When I look at examples of lower-level offences, I think of the woman who has been harassed by antisocial behaviour and threatened with a gun, who is off work through stress. [Interuption.] I also think of the pensioners who have been conned out of their savings by a fraudulent rogue trader. The victims of such crimes would think that prison serves a purpose and that the people who inflicted those crimes on them should lose the right to participate in the referendum. It is important that we give the victims of crime a voice in the debate. They would not applaud MSPs for granting prisoners a vote in the referendum.

Alison McInnes: Will the member take an intervention?

James Kelly: I am sorry, but I am short of time.

The route that Margo MacDonald’s amendment 7 proposes is a dangerous route to go down, in that it would allow consideration to be given to special events or special circumstances. The court already takes into account social work reports and family circumstances. Sending someone to prison will be the last option. Therefore, I do not accept amendment 7.

On the legal arguments about ECHR compliance, the Deputy First Minister tells us that she has taken into account all the legal considerations and that the arguments on case law are clear. However, she has not advanced a legal rationale. It would be good if she could substantiate the Government’s position by saying more about the legal arguments.

In summary, we reject all the amendments in the group and we would like more detail to be provided to back up the Government’s legal case.

Margo MacDonald: Before Ms Goldie speaks, I would like to apologise to the Presiding Officer, Mr Kelly and the chamber—I forgot to turn off my phone.

The Deputy Presiding Officer: Thank you very much. Will all members please remember to switch off their mobile phones when they are in the chamber?

15:15

Annabel Goldie (West Scotland) (Con): I admire the tenacity of Alison McInnes and Patrick Harvie in pursuing the inclusion of their amendments in the bill. They have certainly done their best to expound their arguments and articulate their positions.

However, my problem is one of fundamental principle. In my opinion, if a court considers prison to be an appropriate sentence for an accused, suspension of liberty rightly involves suspension of franchise. I realise that Alison McInnes and Patrick
Harvie may disagree with that view, but it is the view that I take.

Both of those members called on evidence in aid of their argument by referring to various witnesses who support their view. However, no reference was made to another important body of evidence, which is the court of public opinion. An extensive poll that was carried out last year showed that 63 per cent of respondents felt that no prisoners should be allowed to vote in elections. I do not think that we should disregard what is a fairly powerful expression of the public view.

I realise that Margo MacDonald’s amendment 7 is well intended, but again I find it flawed in both principle and rationale. If a judge is determining the sentence for a convicted accused, I want that judge to consider the crime, the victim, the particular circumstances of the accused and—as James Kelly said—any ancillary material such as a social work report.

I do not consider it relevant for the judge to consider whether or not an accused will lose the right to vote. The loss of the right to vote is not a mitigating factor in sentencing, but a consequence of an individual’s transgression against society. I am therefore unable to support any of these amendments.

Nicola Sturgeon: I thank all those members who have ensured that we have had a full and thorough debate on the issue. I recognise that differences of opinion exist, that there are arguments on both sides of the debate and that those who advocate change are putting forward arguments that are based on conviction and stem from principle.

I am sure that, beyond the referendum, we will debate the issue again, both here and elsewhere. It is right that Parliament has heard the debate aired in such detail, and that we have the opportunity to do so again today.

The amendments that Alison McInnes and Patrick Harvie have lodged seek to change the provisions in the bill that prevent convicted prisoners from voting in the referendum while detained in prison. They seek to do so in various ways, all of which are intended to allow some convicted prisoners who are still serving prison sentences to vote in the referendum.

All these amendments were previously lodged at stage 2 and rejected by the committee. As I have said previously—and as I assure Margo MacDonald—I have taken and considered the matter very seriously. However, the Government does not believe that convicted prisoners should be able to vote while they are detained in custody.

The position that we have taken in the bill is consistent with current arrangements. Convicted prisoners do not currently have the right to vote in elections, and they will not have the right to vote in the referendum. The franchise is a crucial part of the referendum, and a consistent position on the issue is key. It is also important that the issue is settled well in advance of the referendum and put to rest with the passage of the bill.

The legal position is clear. The ECHR does not apply to referendums, and case law backs that up. The Law Society of Scotland and legal experts agree on that point, and on the fact that any challenge would not be likely to be successful.

Although I welcome James Kelly’s support for the Government’s position, it is slightly unfortunate that he cannot simply bring himself to say that he backs the position of the Scottish National Party Government, preferring instead to try to pretend that there is some lack of clarity around the legal position. The legal position is clear, and that fact was narrated in the committee’s stage 1 report.

There may come a day—and today would be as good a day as any—when the Labour Party can simply say, without equivocation, that the SNP Government has got it right. I live in hope that we get to that position before the end of today’s proceedings.

Aside from those practical arguments, and the clear legal position, the Government opposes these amendments on principle. The principle that a convicted prisoner loses certain rights for the duration of their custodial sentence is a fundamental and long-standing part of the prison process.

Custodial sentences are handed down by judges and by sheriffs who look at each case on its merits and decide, based on all the circumstances that are laid out before them, whether or not a custodial sentence is suitable and what the appropriate length of that sentence should be. Where such a sentence is imposed, that determines the matter. That approach achieves clarity and is both consistent and principled.

Patrick Harvie: Perhaps the cabinet secretary slightly overstates the long-standing nature of the current situation. For example, under the Forfeiture Act 1870, prisoners in the middle of the 20th century serving sentences of less than 12 months were entitled to vote. I will have one more stab at asking the cabinet secretary to explain. If on principle she supports ECHR and its consequent provision that prisoners—at least some—are able to vote in elections, why is it that a referendum franchise ought to be more restrictive than an electoral franchise?
Nicola Sturgeon: I do not believe that prisoners should get to vote in elections; what I do believe is that we have to accept the implications of ECHR. However, ECHR does not mandate that prisoners should be allowed to vote in referenda, because it specifically applies to elections to national legislatures. If I personally do not believe in a particular position, then I do not think that it is consistent or sensible for me to want to argue for going beyond the ECHR position.

Margo MacDonald: Surely the ECHR position is not about the particular vote but about the principle of voting, which means that if we can vote in one way to elect a member, we can vote in another way.

Nicola Sturgeon: I agree to an extent with Margo MacDonald, but the point that I am making is that in principle I do not believe that prisoners should have the right to vote. I have heard some people say that the Scottish Government’s commitment to reducing short-term sentences and ensuring that prison is used only where that is appropriate somehow means that we should take a different view on this issue; on the contrary, the fact that our position is that prison should be used only where appropriate means that where a judge does decide that a prison sentence is appropriate, then certain consequences should flow from that prison sentence. One of those consequences is that the prisoner loses the right to vote for the duration of the custodial part of their sentence. I think that Stewart Maxwell summed the argument up absolutely perfectly, because this is not a debate between short sentences and long sentences: the distinction here is whether a judge sees fit to send somebody to prison or not—that is the basis of the principle.

So, for all those reasons, the Government’s position remains as set out in the bill, and I will not accept the amendments that have been lodged by Alison McInnes and Patrick Harvie.

Margo MacDonald’s amendment 7 seeks to impose an obligation on the Scottish sentencing council to provide guidelines to the courts. I do not think that it is for our courts to have guidelines given to them in this area. It is a responsibility of this Parliament to legislate for or—what I want to see—against prisoners voting. It is our responsibility and I believe that we should execute it.

The act that sets out the sentencing council—the Criminal Justice and Licensing (Scotland) Act 2010—allows ministers to ask the council to propose guidelines in particular, but it is worth stressing that it is for the council to decide how to respond to that request, which can include rejecting it. As an alternative, Margo MacDonald has suggested that if the sentencing council is not established in time, the Scottish Law Commission could be required to develop and submit guidelines. However, the Law Commission was established to consider proposals for law reform, and I do not think that it would be appropriate for it to engage in sentencing guidelines.

For all those reasons, I cannot accept amendment 7. I ask members to oppose all amendments in this group and to maintain the position taken by the Scottish Government that convicted prisoners, while in prison, should not be entitled to vote in the referendum.

The Deputy Presiding Officer: Many thanks. I ask Alison McInnes to wind up and indicate whether she intends to press or withdraw amendment 1.

Alison McInnes: The right to vote is a fundamental right in a fair and free democratic society. We must not remove that right lightly or, indeed, arbitrarily. The referendum vote will be a landmark vote, given its potential to bring about significant change. We have an opportunity to do something different here in Scotland today, because we do not need to uphold the UK blanket ban in this case. Today, we have a chance to show Scotland as a progressive nation.

The Labour member referred to the victims of crime, but the best way in which to support them is to do everything that we can to put a stop to reoffending. What I propose would be a small step towards that, because we want to encourage offenders to engage with their communities and to feel part of society.

I will press amendment 1 and I urge members to show support for some of the amendments.

The Deputy Presiding Officer: The question is, that amendment 1 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

We will have a five-minute suspension, followed by a 30-second division.

15:24

Meeting suspended.

15:29

On resuming—

The Deputy Presiding Officer: Before we progress, I advise members that we require more time than has been provided to allow us to complete our consideration of amendments to the bill. I am therefore minded to accept a motion without notice under rule 9.8.5A, that the time limit
for consideration of amendments to the bill be extended to 40 minutes.

Motion moved,

That, under Rule 9.8.5A, the time limit for consideration of amendments be extended to 40 minutes.—[Joe FitzPatrick.]

Motion agreed to.

The Deputy Presiding Officer: I should also remind members that, under rule 9.8.5B, I will use the discretion that is available to me to move decision time tonight to 4.40 pm.

We proceed with the division on amendment 1.

For

Finnie, John (Highlands and Islands) (Ind)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alison (Lothian) (Green)
MacDonald, Margo (Lothian) (Ind)
McInnes, Alison (North East Scotland) (LD)
Rennie, Willie (Mid Scotland and Fife) (LD)
Urquhart, Jean (Highlands and Islands) (Ind)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Buchan, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Chisholm-Macdonald (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Dorrian, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabian, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Ferguson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
FitzPatrick, Joe (Dundee City West) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Graham, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
Mckelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Ian (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Airdrie and Shotts) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Robertson, Dennis (Aberdeen West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeen West) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 8, Against 105, Abstentions 0.

Amendment 1 disagreed to.

Amendment 4 moved—[Patrick Harvie].
The Deputy Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Finnie, John (Highlands and Islands) (Ind)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alisson (Lothian) (Green)
MacDonald, Margo (Lothian) (Ind)
McInnes, Alisson (North East Scotland) (LD)
Rennie, Willie (Mid Scotland and Fife) (LD)
Urquhart, Jean (Highlands and Islands) (Ind)

Against

Adam, George (Paisley) (SNP)
Adams, Clare (Central Scotland) (SNP)
Alian, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Ballie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eadie, Helen (Cumbernauld and Kilsyth) (SNP)
Fabian, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
FitzPatrick, Joe (Dundee City West) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Cathness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Benny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jemima (Highlands and Islands) (Con)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 8, Against 105, Abstentions 0.

Amendment 4 disagreed to.

Section 2—Offenders in prison etc not to be entitled to vote

Amendment 2 moved—[Alison McInnes].

The Deputy Presiding Officer: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.
Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Alian, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Alasdair, Christian (North East Scotland) (SNP)
Alasdair, Christian (North East Scotland) (SNP)
Amendment 3 moved—[Alison McInnes].
Amendment 2 disagreed to.
The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Finnie, John (Highlands and Islands) (Ind)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, John (Etrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McKevie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (SNP)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Wat, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)
MacInnes, Alison (North East Scotland) (LD)
Rennie, Willie (Mid Scotland and Fife) (LD)
Urquhart, Jean (Highlands and Islands) (Ind)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biaigi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eddie, Helen (Cowdenbeath) (Lab)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Findlay, Neil (Lothian) (Lab)
FitzPatrick, Joe (Dundee City West) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Graham, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, John (Etrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Mlne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Robinson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 8, Against 106, Abstentions 0.

Amendment 3 disagreed to.

Amendment 5 moved—[Patrick Harvie].

The Deputy Presiding Officer: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Finnie, John (Highlands and Islands) (Ind)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alison (Lothian) (Green)
MacDonald, Margo (Lothian) (Ind)
McInnes, Alison (North East Scotland) (LD)
Rennie, Willie (Mid Scotland and Fife) (LD)
Urquhart, Jean (Highlands and Islands) (Ind)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
The Deputy Presiding Officer: The result of the division is: For 8, Against 107, Abstentions 0.

Amendment 5 disagreed to.

After section 3

Amendment 7 moved—[Margo MacDonald].

The Deputy Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Finnie, John (Highlands and Islands) (Ind)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alison (Lothian) (Green)
MacDonald, Margo (Lothian) (Ind)
McInnes, Alison (North East Scotland) (LD)
Rennie, Willie (Mid Scotland and Fife) (LD)
Urquhart, Jean (Highlands and Islands) (Ind)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Bamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Gavin (Lothian) (Con)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunningham South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Carlaw, Jackson (West Scotland) (Con)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Davidson, Ruth (Glasgow) (Con)
Dey, Graeme (Aberdeen South) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Eddie, Helen (Cowdenbeath) (Lab)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Fergusson, Alex (Galloway and West Dunfries) (Con)
Findlay, Neil (Lothian) (Lab)
FitzPatrick, Joe (Dundee City West) (SNP)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunningham North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Goldie, Annabel (West Scotland) (Con)
Graham, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alex (North East Scotland) (Con)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
MacIntosh, Ken (Eastwood) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mallik, Hanzala (Glasgow) (Lab)
Marra, Jenny (North East Scotland) (Lab)
Martin, Paul (Glasgow Provan) (SNP)
Mason, John (Glasgow Shettleston) (Lab)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
Mckelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gill (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robinson, Shona (Dundee City East) (SNP)
Russell, Michael (Argyll and Bute) (SNP)
Salmond, Alex (Aberdeenshire East) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Drew (Glasgow) (Lab)
Smith, Liz (Mid Scotland and Fife) (Con)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Finnie, John (Highlands and Islands) (Ind)
Harvie, Patrick (Glasgow) (Green)
Hume, Jim (South Scotland) (LD)
Johnstone, Alison (Lothian) (Green)
MacDonald, Margo (Lothian) (Ind)
McInnes, Alison (North East Scotland) (LD)
Rennie, Willie (Mid Scotland and Fife) (LD)
Urquhart, Jean (Highlands and Islands) (Ind)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Bailie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Amendment 6 seeks to make one further change to the form. During stage 1, several witnesses commented that it would be helpful to include on the canvass form information about the possibility of registering anonymously or through a declaration of local connection. At stage 2, I lodged a number of minor amendments to the form arising from the testing process and comments by EROs.

Amendment 6 seeks to make one further change to the form. During stage 1, several witnesses commented that it would be helpful to include on the canvass form information about the possibility of registering anonymously or through a declaration of local connection. At stage 2, I advised the committee that the Scottish Government was considering whether it would be best to communicate such information on the form.
itself or in guidance. As it is crucial that individuals know what options might be available if there are any concerns that inclusion on the register of young voters could affect the young voter’s personal safety, or if the young voter does not wish to register with their current address, amendment 6 seeks to insert an additional paragraph to the guidance notes on the back of the registration form, making it clear that other registration options might be available to young voters in such circumstances. The amendment’s wording has been developed in consultation with EROs and directs individuals to discuss any concerns with them.

Of course, amending the form goes only so far in raising awareness of these important facilities for registering anonymously or with a separate address, so Scottish Government officials will continue to work with EROs over the summer on how to promote awareness of the arrangements.

I move amendment 6.

The Deputy Presiding Officer: I will take a brief comment from Annabel Goldie.

Annabel Goldie: I am not accustomed to taking credit for anything, but I think that I highlighted at committee concerns about the structure of the canvass form. If I were being picky, I might say that this information should be placed at the beginning of the form; however, I will not be. I am very pleased about this change to the canvass form; it is good to have the amendment and I will support it.

The Deputy Presiding Officer: I call Patricia Ferguson for a brief contribution.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): I do not want to use up the chamber’s time unnecessarily by going over the arguments that the committee had but will simply say that we, too, welcome this change. We think that it provides necessary safeguards and additional information for young people who might otherwise be left vulnerable and unable to access a voting facility.

The Deputy Presiding Officer: Do you wish to wind up, cabinet secretary?

Nicola Sturgeon: No.

Amendment 6 agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Scottish Independence Referendum (Franchise) Bill

The Deputy Presiding Officer (Elaine Smith): The next item of business is a debate on motion S4M-07109, in the name of Nicola Sturgeon, on the Scottish Independence Referendum (Franchise) Bill.

15:40

The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon): I am very pleased to open the stage 3 debate on the Scottish Independence Referendum (Franchise) Bill and to fulfil the Scottish Government’s commitment to extend the referendum franchise to all 16 and 17-year-olds.

The bill is a crucial first step towards next year’s historic poll and in the journey towards a referendum that is designed, built and made here in Scotland, and I thank everyone who has been involved in its development. In particular, I pay tribute to the thorough and detailed scrutiny of the Referendum (Scotland) Bill Committee, which has been invaluable in shaping an important piece of legislation. I am extremely grateful to the committee’s convener, members and clerks for their very constructive contributions. I also thank my bill team and officials for the incredible amount of hard work that they have done on the bill. The bill has, of course, been introduced and has progressed through the Parliament to a very tight timescale, and has progressed in the latter stages in parallel with the Scottish Independence Referendum Bill.

In addition to the Government’s formal consultation, which sought views on the full range of referendum issues, including the franchise, we have sought detailed views from experts in electoral administration and child protection on the more specific aspects of taking forward our proposals. The key contributors whom I want to thank include electoral registration officers, returning officers, the Electoral Management Board for Scotland, the Electoral Commission, Scotland’s Commissioner for Children and Young People, the Scottish Information Commissioner, Young Scot and the Scottish Youth Parliament, which has campaigned hard for the extension of the franchise to 16 and 17-year-olds. It can take great credit and pride from its achievement in seeing the bill pass through the Scottish Parliament, assuming that it does so later on.

The help and advice of all those organisations have proved invaluable in shaping the legislation. That help and advice started with their comments and responses to our targeted consultation
exercise in December and continued right through the bill’s development and parliamentary progress. I thank them for their thorough and constructive scrutiny and for their willingness to engage and share their considerable knowledge and expertise.

I hope that members who have been involved in the bill’s progress will acknowledge that we have listened carefully to the range of views that have been expressed and that, where it was appropriate to do so, we have amended our proposals accordingly.

As members are aware, the bill sets out who will be able to vote in the referendum next year. As members are also aware, the franchise is based on the franchise for local government and Scottish Parliament elections, as that most closely reflects residency in Scotland. It is absolutely right that those who live in Scotland should be able to vote on its future and have a say on the matters that affect them. The key difference, of course, is the extension of the franchise to 16 and 17-year-olds. Young people have a significant stake in this country’s future, and it is absolutely right that they have the opportunity to vote on 18 September next year.

It has been a long-standing policy of the Government that the voting age should be lowered to 16. The bill provides a detailed, workable and practical framework that allows 16 and 17-year-olds to register to vote in the referendum. It provides that a young voter registration form will be sent to every household in Scotland this year along with the annual household canvass. Those forms will collect details of all young people who will be eligible to vote in the referendum whose details would not otherwise be captured by the canvass. As I said in the debate on the last amendment that we debated, the form has been independently tested and the results of that testing were that it is clear, intelligible and easy to use. The testing report recommended a variety of minor changes to the form, which we took on board at stage 2, but generally the form was found to work well, and no eligible young voters were missed.

In recognition of the fact that we need to treat the details of those who are not yet 16 with particular care, the bill provides for the creation of a separate register of young voters to hold the data collected on the young voter registration forms. Access to that register will be strictly controlled. I note that all members agreed to that as the bill progressed through Parliament.

As I have said, the bill has benefited enormously from the input of stakeholders and the bill committee. The majority of the amendments that I lodged at stage 2 were a direct result of comments from stakeholders or were based on the results of the independent testing of the form. For example, EROs told us that it was important to specify the date of the end of the canvass for the register of young voters in the legislation, because that would provide clarity about when the canvass period for young voters ends and rolling registration begins, and that it was important to bring that into line with the canvass period for the local government register. Therefore, I lodged amendments to that effect at stage 2, which were accepted by the committee. I also lodged a number of amendments regarding the young voter form, which resulted from the testing process. Those changes were aimed at ensuring that the form will be as clear, intelligible and easy to use as possible.

Further, earlier this afternoon, I proposed a final change to the form. Scotland’s Commissioner for Children and Young People and the Scottish Information Commissioner stressed the importance of young people knowing that alternative routes of registration might be open to them if there are any concerns at all that inclusion in the register might affect their personal safety. They suggested that a sentence might be added to the form to achieve that, which was a suggestion that was included in the committee’s stage 1 report. That is why the amendment that was debated and agreed to this afternoon was lodged. The amendment makes it clear that individuals can use a previous address to register, or can register anonymously if there are concerns about their personal safety. Importantly, it also suggests that they contact their electoral registration officer to discuss any concerns.

The next household canvass, which begins in the autumn of this year, will see young voters being asked to register for the first time. EROs will collate that information into a register of young voters, upon which, as I have already said, there will be strict access controls.

I assure Parliament that we and the Electoral Commission will continue to work closely with EROs to ensure that the collection of data for the register of young voters is as efficient and effective as possible. I am sure that we will return to this point during the passage of the Scottish Independence Referendum Bill, but the referendum will be run to the highest standards of fairness and transparency, and the efficacy of the registration process plays a vital part in that.

Although the bill’s main focus has been the extension of the franchise to 16 and 17-year-olds, we have also had a robust debate around the rights or otherwise of prisoners to vote in the referendum. As I said earlier, I want to thank members who have ensured that we have had a thorough debate on the issue. Although I took a different view, I respect the views of those who advocated change. I understand and appreciate that they did so from a position of principle.
Although I hope that the passing of the bill today will settle the matter for the purposes of the referendum, I have no doubt that the issue will be debated again with regard to elections in this place and elsewhere.

This bill is an important milestone. It marks the first stage in legislating for a referendum on Scotland’s constitutional future. Those of us who passionately advocate a yes vote do so because we believe that the responsibility for the decisions that shape our country and the lives of the people who live here should rest here in Scotland. It is entirely consistent with that principle of responsibility that our 16 and 17-year-olds, who assume many of the responsibilities of adulthood, should have the right to participate in the referendum and play their part in determining the country’s future.

The bill determines the franchise for the referendum, which will be consistent with the franchise for elections to this Parliament, which is right and proper. In addition, it lowers the voting age for the referendum to 16, recognising the vital stake that young people have in the future of our country. I believe that the proposals in the bill are a practical and workable way to allow every eligible voter aged 16 or over to vote in the referendum next year.

It therefore gives me enormous pleasure to move,

That the Parliament agrees that the Scottish Independence Referendum (Franchise) Bill be passed.

15:49

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): As Parliament knows, this bill has been subject to an expedited process, so that the electoral registration canvass can begin in the autumn. It has been possible for the committee to meet that exacting timetable only because of the co-operation of witnesses and the excellent work of the committee clerks and their colleagues in the Scottish Parliament information centre, who have supported the committee every step of the way. The committee advisers have also been extremely helpful, as has been all the evidence that we have received over the past few months during our deliberations.

The bill, like all legislation, has improved as it has passed through Parliament. The bill that we will vote on this afternoon has been strengthened by changes that have been made as a result of contributions to the consultation and, I hope, proper scrutiny by the committee. As legislators, we would all do well to remember that admitting that something can be done better or that there is still room to improve legislation is not a sign of weakness in Government. Indeed, the strongest Governments are those that can openly discuss issues and realise that they do not always get it right first time. There will be times when political points have to be made on issues, but on matters such as the protection of young people, for example, we have a common agenda. I am pleased that the Deputy First Minister has recognised that this afternoon.

Scottish Labour strongly supports the principle of giving 16 and 17-year-olds the vote and believes that that right should be extended to all elections. If anyone had any doubt about the ability of young people to listen to the debate, engage in the arguments and come to sensible conclusions, they had only to listen to the excellent contributions of the young people who gave evidence to the committee to be reassured on that point. There are, nevertheless, challenges inherent in extending the vote to 16 and 17-year-olds, particularly those who are vulnerable for whatever reason, and much of the committee’s focus was on ensuring that the bill offers them the necessary safeguards and protections. I believe that it now does that. I welcome the advice that has been offered by stakeholders and the testing that has been carried out to ensure the clarity of the canvass forms.

The committee was reassured that service personnel will have the same opportunity to exercise their franchise as they have in elections to the Scottish Parliament. There remains the issue, however, of the children of service personnel who cannot make a service declaration but who will, on this occasion, be old enough to vote. I realise that that is likely to be a small group of people, but I think that it is right that the effort is made to ensure that they can vote. It is a matter of principle and should be pursued. I hope that the necessary provisions can be made during the passage of the Scottish Independence Referendum Bill, to which this bill is closely allied. I also look forward to hearing from the Electoral Commission, electoral registration officers and the Ministry of Defence about how they will work together to ensure that service personnel are encouraged to participate.

I am pleased that the Scottish Government lodged an amendment at stage 2 that picked up the points that were made in evidence by members of the Scottish Youth Parliament about cut-off dates being incorporated into the young voters registration form. I had proposed a slightly different way of achieving that end, but I happily accept the cabinet secretary’s version.

Awareness raising was a key element of our deliberations, because it is in everyone’s interest, regardless of their views on separation, to ensure that voters are informed and prepared when they go to vote. We should also aim to ensure that their
experience of the process is a positive one. The committee noted that the Electoral Commission has a budget of £1.8 million for advertising and that it was satisfied that it could work with that arrangement. I am grateful to the Electoral Commission for providing yesterday a note of its current plans. I particularly welcome the fact that it has recognised that September 2014 will be a time of transition for many young people who will be leaving home to take up places at university and that it will be important for them to be aware of the provisions concerning proxy votes, because they are likely to be registered at their home address but perhaps living at a new address connected to their university at the time of the referendum. I also welcome the Electoral Commission’s commitment to keep Parliament informed of progress on its plans.

The only issue on which there was a clear political difference in the committee was prisoner voting. The arguments have largely been rehearsed here today in the debate on amendments. I want to be clear about this: Scottish Labour thinks that the issue should be subject to debate, but we believe that the debate must take place in the correct context. We cannot consider voting without looking at the purpose of prison and whether prison is solely a punishment or should, as we believe, have a strong and meaningful role in rehabilitating prisoners.

As we know, there is currently a blanket ban on prisoner voting, and we have heard today arguments in favour of lifting the ban for this referendum only and in certain cases. Those arguments centred on the idea that prisoners serving shorter sentences should be allowed to vote, with prospective cut-off points of six months and four years being suggested. However, in 2011-12, 11 murderers and eight people found guilty of rape were given sentences of up to four years. In the same year, 73 per cent of those imprisoned for common assault, which includes domestic violence, were given sentences of less than six months. I believe that the debate must also be informed by a critical consideration of sentencing policy. In the curtailed scrutiny process that we were involved in, there was insufficient time to have the kind of debate that would be needed before such a change could be considered, but I look forward to the day when that debate takes place.

To those of us on the Labour benches, it is disappointing that the cabinet secretary was unwilling to share any legal advice that she might have on the issue. We have raised this point before, but I make no apologies for raising it again. Ms Sturgeon has been content to quote the committee’s legal advice, which suggests that the position on prisoner voting is compliant with the European convention on human rights, but she presumably has her own legal advice, as she had made up her mind before the committee had even asked for evidence. I know that the cabinet secretary will maintain that ministers do not discuss legal advice, but they can do so when it is in the public interest. I believe that this is one case in which the public interest would be best served by hearing the advice that shaped the Government’s assertion that ECHR compliance is not a threat to the bill.

The Deputy Presiding Officer (John Scott): You should be drawing to a close now, please.

Patricia Ferguson: We may take a different view from the Government on what would be a desired outcome from next year’s referendum, but we agree that young people should be able to take part in that referendum, not least because, as they said to us in committee, they will have to live with its consequences for the longest time.

15:56

Annabel Goldie (West Scotland) (Con): Today represents the final stage of phase 1 of an important legislative process that will culminate in the referendum on 18 September next year. I echo Patricia Ferguson in thanking all those who have been involved in the process in whatever capacity. In aggregate, their evidence has helped the whole process of scrutiny and improvement of the bill. Although the issues at stake in the referendum are immense and are already being debated passionately, deciding who is entitled to vote is also of profound importance. Broadly speaking, I think that deploying the existing franchise for local government and Scottish Parliament elections is sensible, but using as significant an occasion as the referendum on Scotland’s future as a testbed for extending the franchise to 16 and 17-year-olds is, in my opinion, premature and misjudged. As I observed during the stage 1 debate, I do not deny that there is a debate to be had about the franchise and the age at which it is obtained, but little if any value can be extrapolated from the limited experience in Scotland of such an extension, given the dismal turnout levels for the health board elections. If there is a desire to look at age levels for elections—or, for that matter, when people may first drive a car, purchase alcohol or hold a firearms licence—a broader debate and more widespread consultation would have been sensible.

Being mischievous, I observe that the First Minister is not a man to make decisions without a reason, nor is he averse to a promising punt. I can surmise only that his enthusiasm for extending the franchise was because he envisaged wide-eyed innocence and unquestioning sentiment embracing and promoting his separatist agenda.
and fanning the yes vote. However, the young people seem to be having the last laugh, because a recent poll suggests that 60 per cent of them will reject independence. Notwithstanding their commendable common sense, I still feel that extending the franchise for the referendum is premature. I realise that I am a lone voice on this issue, but my dissent, which is noted in the committee’s stage 1 report and in my party’s opposition to the bill at stage 1, will be reflected by my voting against the bill at decision time.

However, recognising that the bill will be enacted, I want to make some constructive comments. It is essential that these enfranchised young people have access to information. Given that many of them will still be at school, it is paramount that local authorities understand the difference between the legitimate provision of information provided by balanced debate, and partisan propaganda. The first can be responsibly provided by properly balanced panel discussion in schools or by referring young people to the main campaigning entities, Better Together and Yes Scotland, but the second—partisan propaganda—is completely unacceptable. I recognise that it would be wrong for the Scottish Government to intrude on local government territory by imposing guidelines, but local authorities must demonstrate their resolve by opposing anything that reeks of influence or coercion by setting out a code of practice for their schools that underpins neutrality and minimises disruption to learning.

Turning to more specific aspects of the bill, section 3 prohibits convicted prisoners who are held in a penal institution from voting. We have to some extent rehearsed that issue when we discussed the amendments. Suffice it to say that I agree with the Scottish Government’s view on the issue and, given the recent rulings by the European Court of Human Rights, which questions such a blanket prohibition, it was right to deal with the matter in the bill. However, as I have said, there is a fundamental principle underpinning the prohibition of votes for prisoners: if a court considers prison to be an appropriate sentence for an accused, then the suspension of liberty rightly also involves suspension of franchise.

I was interested in the discussion that surrounded the risk of legal challenge on that issue. However, based on the evidence that the committee received from the Scottish Government and other witnesses, including the Law Society of Scotland, the prospect of a successful challenge seems extremely remote.

In conclusion, I will refer to a couple of the bill’s technical points that interested me during the committee’s evidence. First, the Deputy First Minister confirmed that she had been reassured by the Cabinet Office at Westminster that individual voter registration would not start until after the referendum. I would be grateful for clarification on whether progress has been made at Westminster with the necessary statutory instrument to achieve that outcome. Secondly, as I have said, I was worried that the canvass form did not make it sufficiently clear to the adult completing the form that the address of a young person does not need to be disclosed. I therefore welcome the Scottish Government’s amendment on that that was passed earlier; it is a welcome improvement to the bill.

16:02

Bruce Crawford (Stirling) (SNP): On many occasions since the establishment of this Parliament in 1999, I have been very proud of what we have achieved through the legislation that we have passed. That includes the legislation to ban smoking in public places, the passing into law of minimum alcohol pricing, the abolition of tuition fees to remove the tax on learning, the far-reaching land reform legislation and the global-leading Climate Change (Scotland) Act 2009. I will also feel the same pride at decision time as I did when we held firm on issues such as section 28 or on the legislation on the use of dogs for the hunting of foxes.

This is another day when we will pass into law a bill that shows Scotland standing out from the crowd as a progressive and forward-looking nation—not necessarily unique or better than anyone else but, more important, prepared to do things our own way and to make a clear statement on our values and how we value our most important resource: our people. That is how important this piece of legislation is—it says to the young people of Scotland that we value them, that we recognise their contribution to society and that we also recognise that they deserve a say in one of the most important decisions this country will make in more than 300 years.

Disappointingly, as we have heard, there are those who say that young people are not ready to make such important decisions at the age of 16. Although I respect their viewpoint, I say to them that it was not 16 or 17-year-olds who have taken us into wars that have led to countless and needless deaths; it was not 16 or 17-year-olds who introduced legislation that has led to civil unrest in the streets; and it was not 16 or 17-year-olds who created a society where so many people live in poverty, which is incredible in this day and age.

Annabel Goldie: Will the member give way?

Bruce Crawford: I am sorry, but I only have three minutes.
Those decisions were taken and their outcomes created by mature and supposedly wise and experienced adults. Those of us who are older would do well to remember that age does not bring wisdom, the ability to learn from experience or the capacity to avoid calamitous decisions.

I am convinced that most young people in this country are ready and able to participate in debate. Given that they are the people who will be affected for the longest period by the results, they deserve to help to shape the outcome of their own country. If a person is of an age when they could go out into the world of work and pay their dues to society through taxation, they should be given the franchise and be able to vote.

I invite the Tories, even at this late juncture, to join the mainstream of progressive Scotland as we vote through this bill. Otherwise, they will be stuck in the same place that they have been stuck for a long, long time.

16:05

John Pentland (Motherwell and Wishaw) (Lab): When I spoke in the stage 1 debate on the bill, I was supportive of its general principles but not without some reservations. In many ways, little has changed: I am still supportive but seek assurances.

I welcome the vote for 16 and 17-year-olds and the measures to protect personal data. However, I still believe that 16 and 17-year-olds should be able to vote in all elections, not just the referendum.

There are many Scottish people living outside Scotland who, I am sure, would like to vote in the referendum but would not normally vote in elections here. I recognise that such Scots enjoy the benefits of being part of the United Kingdom as well as maintaining their Scottish identity, so it is likely that they would bolster support for the UK. However, I also understand the difficulties that including them would present in establishing the legitimacy of the referendum.

Therefore, for the sake of a clear result, the best response to their dissatisfaction will be a resounding rejection of separatism and the disruption that it would bring to those who have strong ties with the other nations of the UK and who recognise the interdependence that binds them.

As a constituency MSP with a busy main street office, I am quickly made aware of differences in opinions and the real issues that affect constituents’ lives. I have to say that no constituent has expressed any opinion on prisoners voting. Regardless of whether they have been prisoners, they are more concerned about the bread and butter issues, such as housing, education, jobs and putting food on the table. I suspect that most constituents support the exclusion of prisoners. Allowing prisoners to vote is not a major issue in my constituency, and I doubt that it would even be an issue for many prisoners.

I am prepared to accept the Scottish Government’s proposal to exclude prisoners from voting as long as it does not affect the legitimacy of the referendum. However, like James Kelly and Patricia Ferguson, I feel that, given the importance of the legal issue and our commitment as a Parliament and nation to complying with the ECHR, ministers need to tell us the legal basis that supports their view that the bill is ECHR compliant. Ideally, in her closing speech, the cabinet secretary will remove all doubt and promise to make that available.

16:08

Stuart McMillan (West Scotland) (SNP): This is truly a momentous day. Irrespective of which side of the debate members are campaigning for, at decision time they will shatter the ceiling placed on 16 and 17-year-olds in Scotland. Next year’s referendum will allow 16 and 17-year-olds the right to vote and, as Donald Dewar once said, I like that.

The doubters who suggest that 16 and 17-year-olds should not have the vote and those who have reluctantly agreed to the decision have had many chances to amend the electoral law that governs the whole of the UK. They have consistently failed to stand up for the voting rights of 16 and 17-year-olds, and I am delighted that the Scottish Parliament will, yet again, lead the way with that hugely important reform.

Sixteen and 17-year-olds have the right to have their voices heard and their votes counted.

Issues were raised on how best to deal with engaging and informing 16 and 17-year-olds about the referendum—that is, informing them about how they should register and providing them with information that is clear and unambiguous but not partisan to any side of the debate.

The first issue to be dealt with is engaging with younger people to enthuse them about registering. All members anticipate a higher turnout than usual next year, but that will happen only if both sides try to engage and offer their own positive prospectus for the nation.

Secondly, ensuring that information is provided to our younger citizens and that they have a role to play in the future of Scotland is, quite rightly, a role for the Electoral Commission. It is neutral and unbiased, and in what is already a hotly contested debate it can be the vehicle that provides clarity
about not the politics or the rhetoric but the process for the people who will register to vote for the first time.

During the committee’s deliberations, Rob Gibson talked about the need to ensure that the Electoral Commission develops, as we said at paragraph 137 of our stage 1 report, “a detailed delivery plan to promote effective joint working, to clarify what it expects from others, and to ensure an appropriate degree of consistency across Scotland.”

Without a doubt, the Electoral Commission has a central role to play in working with other organisations to facilitate the referendum. I have confidence in the commission.

The Scottish Parliament is maturing. We are ready and prepared to take the next step on our journey towards becoming a normal independent country, and 16 and 17-year-olds will play their part in that. Next year, 16 and 17-year-olds—and all Scotland—will have an important choice to make. Will we choose hope over fear? Prosperity over austerity? Responsibility in Holyrood over the irresponsibility of Westminster?

I like that 16 and 17-year-olds will vote next year, and I look forward to the yes vote in the referendum.

16:11

Alison McInnes (North East Scotland) (LD):
The passing of the bill today will finalise two major decisions. One represents a progressive change for the future. The other reflects illiberal entrenchment in the past.

I am as delighted as other members are that we are giving 16 and 17-year-olds the right to have their say on the country’s future. The Liberal Democrats want to create a fair society, and it has long been our policy to lower the voting age. We hope that today’s move will be the first step towards allowing 16 and 17-year-olds to vote in all elections in the UK.

I am deeply disappointed by the position of the majority of members on prisoner voting. Outside this Parliament, there is a growing consensus on the matter, which has been stubbornly ignored by three parties in the Parliament. There is not yet consensus on which prisoners should vote, but there is consensus that it is simply wrong to continue to deprive every person in prison of the fundamental right to participate in our democracy.

It is correct that we punish offenders, but our primary aim must be to rehabilitate them. If we are serious about that and about reducing reoffending, we must ensure that prisoners are more engaged with society.

Voting is not a duty that we impose on people; nor is it a privilege that can be revoked at the slightest cause. It is a fundamental right of every member of a free and fair society, which we should not remove lightly.

All too often during our debates on the matter, I have heard opponents fall back on the argument that the situation should stay as it is because that is how it is. I say this: it is up to members of this Parliament to decide how it should be. We could have decided that there is a better way of determining whether to take away a fundamental right. Instead, Scottish National Party, Labour and Conservative members chose to stay rooted in the past.

Prison will achieve results only if we use it to give offenders the tools that will help them to make a meaningful contribution to the community after they are released. Excluding prisoners, particularly short-term prisoners, from voting, will reinforce prisoners’ sense of isolation and further alienate them from society.

We have missed a chance with this bill. The Parliament has taken the opportunity to open its arms to the country’s young people. We have told them that the referendum is about their future, so they should be a part of it. However, we have turned our backs on another opportunity. We could have sent the message to some of the people who will be in prison on 18 September 2014 that, even though people have done wrong, we have not given up on them and we want to give them a chance to play a part in our society.

16:13

Annabelle Ewing (Mid Scotland and Fife) (SNP): I am pleased to have been called to speak in the debate on the Scottish Independence Referendum (Franchise) Bill. I am a member of the Referendum (Scotland) Bill Committee and I thank the clerks for their sterling hard work throughout our scrutiny of the bill. I also thank all the witnesses who took the time to give evidence to the committee. Their evidence very much informed the committee’s work.

It is important to note, for the record, that the committee worked in a constructive way. Although there are key differences in members’ positions, the committee has always operated in a pragmatic and respectful manner, under the wise convenership of Bruce Crawford MSP—I hope that that earns me some brownie points in the committee.

For my part, I am absolutely delighted to be speaking in this debate as a lifelong supporter of the cause of Scotland. This is indeed a key moment for our Parliament and our country and one that will certainly make it into the history
books. Just 14 short years after our Parliament here in Edinburgh was reconvened, we are now democratically engaged in setting the framework, as far as franchise issues are concerned, for the referendum on the independence of our country.

Many people over the years have imagined that we would arrive at this juncture. It is an absolute privilege to be part of this historic process today.

In agreeing the terms of the franchise for the independence referendum, we have laid down a clear marker for the kind of Scotland that we wish to see. By extending the vote to 16 and 17-year-olds, we are saying to young people, “You are important. You are part of society. You have a role to play. We value you.” That is a very important message indeed. There were no more enthusiastic witnesses before our committee than the young representatives themselves.

It is appropriate on this day for me to quote my mother, Winnie Ewing, following her sensational victory in the Hamilton by-election in November 1967, when she famously said:

“Stop the world, Scotland wants to get on.”

With the passing of the bill this afternoon, I would say that Scotland is nearly there.

16:16

Patrick Harvie (Glasgow) (Green): I echo the thanks of my fellow committee members to our clerks and witnesses and to everyone else who contributed to the process.

I am naturally disappointed that we are not using this bill to take two progressive steps on the question of the franchise, but I want to address my remarks to the step that we have chosen to take—on votes at 16. I am not sure that I can do it the same justice that Bruce Crawford did, who I think addressed the issue extremely well a few minutes ago.

With every school visit that I go on, every question-and-answer session I take part in with young visitors to the Parliament, and every opportunity I have to engage with young people in youth work projects or in communities in Glasgow or elsewhere, I am more and more convinced that 16 and 17-year-olds have exactly the same spectrum of passion and apathy, interest and disinterest, and ideas and confusion as every other age group.

Members who go out knocking on doors and talk to people of all age groups at election time would probably reflect on the diversity of our entire electorate. I do not believe that there is any justification for the assumption that 16 and 17-year-olds are any less able or any more able to take part in this referendum; they are as diverse as every other age group.

Given the arguments that have been made on taxation, participation in other areas of public life, work, marriage—on which we have seen a bill introduced today—and all the other personal life choices that 16-year-olds are able to make in our society, I can see no justification for opposing this opportunity to reduce the voting age to 16 for the referendum.

Those who say that the age should be reduced for all elections are absolutely right, and it is by ensuring a high turnout among 16 and 17-year-olds in the referendum that we will put that case. I hope that young people, like everybody else, choose to vote yes and choose to live the rest of their lives in an independent Scotland that can achieve far more for them and for their communities.

Whichever choice young people make—and whichever choice Scotland as a whole makes—we will make the case for reducing the voting age to 16 for all elections, whether in Scotland or in the UK, if we achieve a strong turnout. We must be focused on promoting participation in this process—not just the opportunity to vote but real participation. We must encourage young people to exercise the right to vote that we are giving them today.

16:19

Annabel Goldie: I hope that this debate—I am pleased to have played a role in stimulating some sort of debate—has disturbed part of the consensus. What I said was intended not as a polemic but simply to introduce a bit of contrary thought to the process.

The point that I was going to make to Mr Crawford when he courteously refused my request to intervene was that, while I accept the consistency of what he is arguing for, I do not know the answer to the question whether, if we are giving young people of 16 and 17 the vote, we should let them buy alcohol. Do we give them firearms licences? Do we allow them to drive motor cars? No one has clarified those aspects to me. Perhaps that debate is for another day.

One important area that time constraints meant that I could not dwell on in my opening speech is the right of our armed forces personnel to exercise their vote. In fairness, I accept that the Deputy First Minister has listened to concerns that emerged at the committee and I know that she is working with her Westminster counterparts to facilitate every possibility that armed forces personnel outwith Scotland can exercise their vote on such an important issue.
A related anxiety is about ensuring that 16 and 17-year-olds who are abroad with their armed forces parents are given the same opportunity. I know that the Scottish Government is investigating that. If there is an update on that, I would very much appreciate hearing about it.

The process that the bill envisages involves the need for information, the encouragement to vote and then, on the day of voting, access to appropriate facilities. I was struck by the briefing that we received yesterday from the NUS Scotland. It made some excellent points and pointed out that "It is vital that comprehensive efforts are made to educate young people who will be eligible to vote at the time of the referendum about how to register, and ensure they have the information and tools needed to take part in this historic vote".

That is absolutely right.

The NUS also makes the interesting point that it would support "the unbiased promotion of referendum participation in schools and colleges".

I agree, provided that such promotion is unbiased. It goes on to say that it "would like to see polling places open on college and university campuses for the referendum."

I have a great deal of sympathy with that, because the referendum will take place at what could be a critical transitional point for some students. The Electoral Commission also picked up that issue in its briefing.

Another aspect that I will dwell on is whether there could be a useful tandem between the NUS and the Electoral Commission. A lot of the Electoral Commission's briefing involves cross-references, and some themes are repeated by the NUS and the Electoral Commission. Such a tandem might be helpful.

The Electoral Commission's briefing talked about what it was doing to improve awareness among 15 to 17-year-olds. It is very encouraging that it says that it has been "working with educational bodies including the Association of Directors of Education in Scotland ... Education Scotland and School Leaders Scotland".

Could that extend to the NUS? Could the Electoral Commission enter into discussion with the NUS about a fruitful conjoined set of proposals to increase information to voters, to heighten awareness of what is necessary to register to vote and to facilitate people's ability on polling day to cast their vote on such an important occasion?

16:24

James Kelly (Rutherglen) (Lab): I echo the comments of Annabelle Ewing and others in support of the clerks and all who have worked on the bill to get it to the stage at which it will be passed shortly by Parliament. I also support Annabelle Ewing's comments about Bruce Crawford, who has competently and ably chaired the committee and kept all of us rowdy MSPs under control, which is a challenge at times.

As Patricia Ferguson, Patrick Harvie and others have said, we are passing a significant piece of legislation. The bill is part of the process as we move towards the referendum in September 2014. It will extend the franchise to 16 and 17-year-olds, which I know will excite many young people throughout Scotland; it will undoubtedly encourage them to participate in the referendum. I am sure that people on both sides of the debate agree that we hope that, post the referendum—whatever the result—the young people who participated in it will be more motivated to take part in the political process in the future. The quality of the young people who gave evidence to the committee reinforces the view of the many who support the extension of the franchise.

Annabel Goldie raised important points about awareness raising and the role of schools. When I talk to young people who are coming up to the age of 16 and who will vote in the referendum, I find that they are very excited about the prospect. To an extent, they also find it quite daunting, in that they have a big decision to make. There is a quest for more information, not just about the process but about the politics on the two sides of the argument. It is important that we raise awareness and that provision is made for information to be supplied in schools. That process should be properly controlled and the information should be appropriately balanced.

As others have said, the legislative process has been accelerated. I am not often a great fan of that, but I acknowledge that it was necessary in this case. As the Deputy First Minister pointed out, the annual canvass will start in the autumn. Never has a canvass been so important; we must ensure that not just 16 and 17-year-olds but as many people as possible are registered to take part in this important vote on the future of Scotland. It is important that the correct processes are put in place. Electoral registration officers have an extremely important role to play in making available the right forms and information.

It was interesting that Annabel Goldie mentioned the NUS briefing. Students will present a big issue, because many will leave home for the first time in around September 2014 and might do so without registering for postal votes. Therefore, the process of proxy vote registration and rolling
registration is important. We must ensure that those young people are aware of the options that are available to them if they move to a college or university that is some distance away from where they currently live, because we want as many people as possible to be registered to vote.

A concern that many people had about the bill related to data protection issues and the potential for data to be published on young people who have not reached the age of 16. However, the committee has done a robust job of checking the processes. People can be reassured by the final product that the Government has produced and the feed-in that the committee has had, which will ensure that young people are properly looked after as far as data protection is concerned.

I do not want to rerun the debate on prisoners voting, although I say to Alison McInnes that it was an important debate to have. There has undoubtedly been a lot of discussion of the issue, and I welcome—[Interruption.] Were you advising me to wind up, Presiding Officer?

The Deputy Presiding Officer: I was advising the cabinet secretary of how long she might have to speak. You have another 30 seconds or thereby.

James Kelly: Okay—30 seconds or thereabouts.

To sum up, I reassure the Deputy First Minister that we support the bill and its provisions in relation to prisoners voting. I would like to see more information on the legal arguments, but we will vote strongly for the bill at 20 minutes to 5, as we recognise that it is an important step in the process leading to the referendum in 2014.

16:30

Nicola Sturgeon: I thank all members who have taken part in the debate.

I begin by highlighting a few issues of process that have been raised. Patricia Ferguson rightly acknowledged that the bill has progressed through an expedited process; that fact underlines my expression of gratitude to all those who have played their part in developing and improving the bill on such a challenging timescale.

Patricia Ferguson was also right to say that the bill has improved during the process. The committee helped in no small measure to achieve the balance in the bill that I hope we will pass today.

I will not rehash the debate on prisoner voting, which I am sure Alison McInnes, who has fought a worthy battle on the issue, will understand. However, I will make one point. Alison McInnes said that the right to vote is a fundamental right, but I argue that liberty is, too. When a judge decides that a person deserves to be in prison, that person loses that fundamental right to liberty; it is also right that they lose the right to vote.

We have heard what is becoming a familiar refrain from Labour, which—to sum it up—is, “Publish your legal advice.” I say politely—while not, I hope, breaking the consensus that we are enjoying today—that that argument is diversionary, and is also becoming a bit tired. In addition, a former minister who makes such an argument ignores the long-standing convention in that regard, of which former ministers are as aware as we are.

Patricia Ferguson: Will Nicola Sturgeon take an intervention?

Nicola Sturgeon: I was going to move on to a consensual point, but I will take the intervention.

Patricia Ferguson: I do not want to break the consensus either, but I make the point to the Deputy First Minister that the reason why we are so keen to find out a bit more about legal advice that may have been obtained on the issue is that we know that there are cases that are waiting to go to court, and we want to ensure that the Government is on the right track. We are sure that the ECHR covers the issue, but we want to know that the Government has done the homework that goes along with that. That is all.

Nicola Sturgeon: The Government always does its homework, and on this issue—perhaps more than on many others—the legal position is clear. A legal challenge would be very unlikely to succeed.

It sounded at times as if Labour’s argument was intended to create an artificial point of difference between it and the Government. However, I welcome James Kelly’s statement in summing up—I think that I am quoting him directly—that the SNP Government is right. I welcome that approach, and I hope to hear much more of it in future debates.

Annabel Goldie raised the issue of individual voter registration. The draft Electoral Registration and Administration Act 2013 (Transitional Provisions) Order 2013 confirms that individual electoral registration will not commence in Scotland until after the referendum. The draft order is currently undergoing pre-legislative scrutiny and is likely to be laid in July, and we
understand that it will be made towards the end of
the year. I hope that that gives Annabel Goldie the
assurance that she seeks.

Annabel Goldie also—along with Patricia
Ferguson—raised the issue of the children of
service voters. The bill contains arrangements for
services personnel that are identical to those for
local government and Scottish Parliament
elections. As is the case for other polls, however,
there is no provision for eligible children of
services personnel to make a services declaration.

The committee asked the Government to look
specifically at the options for those young people.
We have done so, and I reported back to the
committee on 4 June. We have spoken to the
Electoral Commission, the UK Government and
registration officers, and I have sent a fairly
detailed note to the committee that sets out that
although the numbers that we have been able to
obtain are not conclusive, they indicate strongly
that the issue is likely to apply to—if any—only a
very small number of young people.

The broad conclusion that we have reached is
that a new route could be created to registration of
young voters, which would create an additional
category that would apply to young people who
are in that situation. However, we are also of the
view that that is a substantial change to the
registration process and that we are required to
give it detailed and careful consideration. Service
declarations do not form part of the annual
canvass, so the issue can be dealt with on a
longer timetable to allow progression of the bill in
time for October. We have therefore not proposed
changes at this stage, but we will give the issue
further consideration over the summer and will
report back to the committee. In the meantime, I
will welcome any views that the committee is able
to offer as we take forward consideration of the
Scottish Independence Referendum Bill.

I want to devote the rest of my remarks to the
centrepiece of the bill, which is, of course, the
extension of the franchise to 16 and 17-year-olds.
We have heard some excellent and very eloquent
speeches during the debate from Bruce Crawford,
Annabelle Ewing, Stuart McMillan, Patrick Harvie
and others. I believe, as I know many people
across the chamber do, in votes for 16-year-olds
for all elections. I look forward to the day when this
Parliament can legislate to achieve that—
something that will be one of the many gains of
Scotland’s becoming independent. However, in
the meantime, it is right that we extend the
franchise when we can. I believe that it is
absolutely right that we extend the franchise for
the independence referendum.

Politics can occasionally be cynical, and in what
has been a very good debate we perhaps heard
some of that cynicism in Annabel Goldie’s
suggestion that the move to extend the franchise
is a ploy by the Scottish Government to exploit
what she described as the “wide-eyed innocence”
of the young. However, I hope very much that she
and I are both living proof that wide-eyed
innocence is not the sole preserve of the young.
My serious point is that in the same speech
Annabel Goldie also speculated that young people
would not vote for independence. I simply and
politely suggest that she cannot have it both ways.
The point that I want to make is this: young
people, like everyone else, will make up their own
minds on how to vote in the referendum. Patrick
Harvie was absolutely right: they are as diverse as
any other age group and as able to make up their
minds as any other age group.

The point of principle is that regardless of how
16 and 17-year-olds vote as individuals, it is
absolutely right that, as a group that has the right
to marry and to raise children, they also have the
right to vote in the referendum to shape the future
of our country. I am very proud that this Parliament
will afford them that right when we come to vote in
a few moments.

We will all spend a great deal of time and
energy trying to persuade young people and
everybody else to vote the way we want them to
vote, but I am very confident that for young people
who are on their own personal journey to
independence, the argument that Scotland should
take responsibility for its own decisions, which will
allow us to build a country that is wealthier and
fairer—a country that, as Winnie Ewing so
famously said, would speak with its own voice in
the world—will have enormous appeal to young
people and to the population generally. It is the
argument that I believe will win the day.

It gives me great pleasure now to ask that
members support the motion and approve the
Scottish Independence Referendum (Franchise)
Bill.
The Deputy Presiding Officer (John Scott):

There are six questions to be put as a result of today’s business. The first question is, that motion S4M-07109, in the name of Nicola Sturgeon, on the Scottish Independence Referendum (Franchise) Bill, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Doris, Bob (Glasgow) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Dugdale, Kezia (Lothian) (Lab)
Edie, Helen (Cowdenbeath) (Lab)
Edie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Motion agreed to,

That the Parliament agrees that the Scottish Independence Referendum (Franchise) Bill be passed.

Against

Brown, Gavin (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fergusson, Alex (Galloway and West Dumfries) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGirr, Jamie (Highlands and Islands) (Con)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)
Scottish Independence Referendum (Franchise) Bill  
[AS PASSED]  

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Franchise at independence referendum  

2 Those entitled to vote in an independence referendum  

3 Offenders in prison etc. not to be entitled to vote  

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4 Register of young voters  

5 Those entitled to be registered in the register of young voters  

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11 Power to make supplementary etc. provision and modifications  

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Schedule 1 — Application of enactments  

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Scottish Independence Referendum (Franchise) Bill

[AS PASSED]

An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland, including provision for the establishment of a register of young voters for the purposes of such a referendum.

Application of Act

1 Application to independence referendum

(1) This Act applies for the purposes of an independence referendum.

(2) In this Act, an “independence referendum” means a referendum on the independence of Scotland held—

(a) in accordance with paragraph 5A of Part 1 of Schedule 5 to the Scotland Act 1998, and

(b) in pursuance of provision made by or under an Act of the Scottish Parliament.

Franchise at independence referendum

2 Those entitled to vote in an independence referendum

(1) A person is entitled to vote in an independence referendum if, on the date on which the poll at the referendum is held, the person is—

(a) aged 16 or over,

(b) registered in either—

(i) the register of local government electors maintained under section 9(1)(b) of the 1983 Act for any area in Scotland, or

(ii) the register of young voters maintained under section 4 of this Act for any such area,

(c) not subject to any legal incapacity to vote (age apart), and

(d) a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union.
(2) For the purposes of this Act, a person is, on any date, subject to a legal incapacity to vote if the person—
   (a) would be legally incapable (whether by virtue of any enactment or any rule of law) of voting at a local government election in Scotland held on that date, or
   (b) is legally incapable, by virtue of section 3, of voting in an independence referendum held on that date.

3 Offenders in prison etc. not to be entitled to vote

(1) A convicted person is legally incapable of voting in an independence referendum for the period during which the person is detained in a penal institution in pursuance of the sentence imposed on the person.

(2) A convicted person who is unlawfully at large at a time when the person would otherwise be detained as mentioned in subsection (1) is to be treated for the purposes of that subsection as being so detained at that time.

(3) For the purposes of subsection (1)—
   (a) a person detained for default in complying with a sentence is not to be treated as being detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, and
   (b) a person detained by virtue of a conditional pardon in respect of an offence is to be treated as detained in pursuance of the sentence for the offence.

(4) It does not matter for the purposes of subsection (1) whether a person was convicted, or a sentence imposed, before or after the commencement of this Act.

(5) In this section—
   “convicted person” means a person found guilty of an offence (whether under the law of any part of the United Kingdom or anywhere else) and—
   (a) includes a person found guilty by a court of a service offence within the meaning of the Armed Forces Act 2006, but
   (b) does not include a person dealt with by committal or other summary process for contempt of court,
   “penal institution” means an institution to which the Prison Act 1952, the Prison Act (Northern Ireland) 1953 or the Prisons (Scotland) Act 1989 applies.

Register of young voters

4 Register of young voters

(1) For the purposes of this Act, each registration officer must prepare and maintain, for the officer’s area, a register to be known as the register of young voters.

(2) The register must contain—
   (a) the names of the persons appearing to the registration officer to be entitled to be registered in the register, and
   (b) in relation to each person registered in it, the person’s—
      (i) date of birth,
(ii) (except where otherwise provided by an applied enactment) qualifying address, and
(iii) voter number.

(3) Subsection (2) is subject to section 9B of the 1983 Act (anonymous registration).

(4) A person’s qualifying address is the address in respect of which the person is entitled to be registered in the register.

(5) A person’s voter number is such number (with or without any letters) as is for the time being allocated by the registration officer to the person for the purposes of the register.

5 Those entitled to be registered in the register of young voters

(1) A person is entitled to be registered in the register of young voters for any area if, on the relevant date, the person—
(a) is not registered in the register of local government electors for the area,
(b) meets the requirements (apart from any requirement as to age) for registration in the register of local government electors for the area, and
(c) has attained the age of 16, or will attain that age on or before the date on which the poll at an independence referendum is to be held.

(2) In the case of a person who has not yet attained the age of 16—
(a) the person’s entry in the register must state the date on which the person will attain the age of 16, and
(b) until that date, the person is not, by virtue of the entry, to be taken to be a voter for the purposes of any independence referendum other than one the date of the poll at which is on or after that date.

(3) Where a person to whom subsection (2) applies has an anonymous entry in the register, the references in that subsection to the person’s entry in the register are to be read as references to the person’s entry in the record of anonymous entries.

(4) In this section, “the relevant date” means—
(a) the date on which an application for registration in the register of young voters is made (or the date on which such an application is treated as made by virtue of section 10A(2) of the 1983 Act), or
(b) in the case of a person applying for registration in the register of young voters in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

6 Application of enactments relating to registration

(1) The enactments specified in column 1 of the tables in Parts 2, 3 and 4 of schedule 1 apply in relation to registration in the register of young voters (and to that register) for any area in Scotland as they apply in relation to registration in the register of local government electors (and to that register) for that area, but subject to—
(a) the modifications in Part 1 of schedule 1,
(b) the modifications (if any) in the corresponding entries in column 2 of the tables, and
(c) any other necessary modifications.
References in this Act to any enactment applied by virtue of this section and schedule 1 are to the enactment as it had effect on the day on which the Bill for this Act was passed by the Parliament.

Subsection (2) does not apply to an enactment specified in Part 4 of schedule 1.

Declaration of local connection: additional ground for young people

This section applies for the purposes of the application of section 7B of the 1983 Act (notional residence: declaration of local connection) in relation to registration in the register of young voters.

Section 7B of the 1983 Act also applies to a person who, on the date on which the person makes a declaration under subsection (1) of that section—

(a) has not attained the age of 17,
(b) does not fall within any of paragraphs (a) to (c) of subsection (2) of that section, and
(d) meets either of the requirements specified in subsection (2A).

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.

In relation to such a person, “the required address” for the purposes of section 7B of the 1983 Act is any address in Scotland at which the person has previously been resident.

In subsection (2A)—

(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).

Register of young voters: canvass form

The form to be used for the purposes of the canvass under section 10(1) of the 1983 Act in relation to registration in the register of young voters is set out in schedule 2.

Register of young voters not to be published

A registration officer must not publish, or otherwise disclose to any person, the register of young voters or any entry in the register, except as provided by—

(a) this section, or
(b) an applied enactment.

(2) The register, or an entry in it, may be disclosed to a person so far as necessary for the purpose of the carrying out by that person of any function in connection with registration in the register.

(3) The register, or an entry in it, may be disclosed to a person for the purposes of an independence referendum, but only in accordance with provision made by or under the Act of the Scottish Parliament by virtue of which the referendum is to be held.

(3A) The register, or an entry in it, may be disclosed to a person so far as necessary for the purposes of a criminal investigation or criminal proceedings relating to an offence (or alleged or suspected offence) under—

(a) an applied enactment, or

(b) the Act of the Scottish Parliament by virtue of which an independence referendum is held.

(4) An entry in the register may be disclosed to the person to whom the entry relates.

(5) In subsection (1), “registration officer” includes—

(a) any deputy of a registration officer,

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

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

### Registration officers’ expenses

#### Registration officers’ expenses

(1) Any expenses properly incurred by a registration officer that are attributable to the exercise of the registration officer’s functions under this Act are to be paid by the Scottish Ministers.

(2) Sums payable by the Scottish Ministers under subsection (1) are payable on the submission of an account for the sums to them by the registration officer.

(3) If a registration officer requests from the Scottish Ministers an advance on account of any expenses referred to in subsection (1), the Scottish Ministers may make such advance on such terms as they think fit.

### General

#### Power to make supplementary etc. provision and modifications

(1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.

(2) The power in subsection (1) includes power to make provision in consequence of, or in connection with—

(a) any provision made, or proposed to be made, in an Act of the Scottish Parliament for the holding of an independence referendum,
(b) any modification, or proposed modification, of any enactment relating to the registration of electors for the purposes of local government elections in Scotland.

(3) An order under subsection (1) may—
(a) modify any enactment (including this Act),
(b) apply any provision of any enactment (either with or without modifications),
(c) include supplementary, incidental, consequential, transitory or transitional provision or savings.

(4) An order under subsection (1) is subject to the affirmative procedure.

12 Interpretation

(1) In this Act—
“the 1983 Act” means the Representation of the People Act 1983,
“anonymous entry” in relation to the register of young voters is to be construed in accordance with section 9B of the 1983 Act, and “record of anonymous entries” means the record prepared under regulation 45A of the Representation of the People (Scotland) Regulations 2001 (SI 2001/497),
“applied enactment” means an enactment as applied for the purposes of this Act by virtue of section 6(1),
“area”, in relation to a registration officer, means the area for which the officer acts in relation to the registration of local government electors,
“declaration of local connection” means a declaration under section 7B of the 1983 Act,
“local government election” has the meaning given in section 204(1) of the 1983 Act,
“registration officer” means a registration officer appointed under section 8(3) of the 1983 Act,
“relevant citizen of the European Union” means a citizen of the Union who is not a Commonwealth citizen or a citizen of the Republic of Ireland,
“service declaration” means a declaration under section 15 of the 1983 Act.

(2) In this Act, a reference to a provision of the 1983 Act that is applied for the purposes of this Act by virtue of section 6(1) is a reference to that provision as so applied.

13 Commencement

(1) This Act comes into force on the day after Royal Assent.
(2) Despite subsection (1), no application for registration in the register of young voters may be made before 1 October 2013.

14 Repeal
This Act ceases to have effect on 1 January 2015.
15 Short title

The short title of this Act is the Scottish Independence Referendum (Franchise) Act 2013.
SCHEDULE 1
(introduced by section 6(1))
APPLICATION OF ENACTMENTS

PART 1

GENERAL MODIFICATIONS

In any enactment as applied by virtue of section 6(1) and this schedule, unless the context requires otherwise—

(a) references to the register of local government electors (however expressed) are to be read as references to the register of young voters,

(b) references to residency for the purposes of section 4 of the 1983 Act are to be read as references to residency for the purposes of that section as it has effect for the purposes of section 5(1)(b) of this Act,

(c) references to any other enactment which is applied by virtue of section 6(1) are to be read as references to the enactment as so applied,

(d) “prescribed” means prescribed in an enactment specified in column 1 of the table in Part 3 of this schedule as that enactment is applied by virtue of section 6(1),

(e) “regulations” means any such enactment as is referred to in paragraph (d).

PART 2

THE 1983 ACT

The provisions referred to in column 1 of the table are provisions in the 1983 Act.

<table>
<thead>
<tr>
<th>Provision of the 1983 Act</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 5 (residence: general)</td>
<td></td>
</tr>
<tr>
<td>Section 6 (residence: merchant seamen)</td>
<td></td>
</tr>
<tr>
<td>Section 7 (residence: patients in mental hospitals who are not detained offenders or on remand)</td>
<td>In subsection (3)(a)(i), the reference to the returning officer is to be read as a reference to a counting officer appointed for the purposes of an independence referendum.</td>
</tr>
<tr>
<td>Section 7A (residence: persons remanded in custody etc.)</td>
<td></td>
</tr>
<tr>
<td>Section 7B (notional residence: declarations of local connection)</td>
<td></td>
</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modifications</td>
</tr>
<tr>
<td>--------------------------</td>
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</tr>
<tr>
<td>In subsection (3)(e), the words “(if the declaration is made for the purposes only of local government elections)” are omitted.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3)(f), the reference to the age of 18 years is to be read as a reference to the age of 17 years.</td>
<td></td>
</tr>
<tr>
<td>Subsections (5) to (7) are omitted.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Section 7C (effect of declaration of local connection)</td>
</tr>
<tr>
<td>10</td>
<td>In subsection (1), the reference to the duty to maintain the registers under section 9 of the 1983 Act is to be read as a reference to the duty to maintain the register of young voters under section 4(1) of this Act.</td>
</tr>
<tr>
<td>Subsections (2) and (3) are omitted.</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Section 9A (registration officers: duty to take necessary steps)</td>
</tr>
<tr>
<td>Subsections (2) and (3) are omitted.</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>In subsection (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number.</td>
</tr>
<tr>
<td>25</td>
<td>Section 9B (anonymous registration)</td>
</tr>
<tr>
<td>Subsection (1) has effect as if—</td>
<td></td>
</tr>
<tr>
<td>(a) for “an annual canvass” there were substituted “a canvass between 1 October 2013 and 10 March 2014”, and</td>
<td></td>
</tr>
<tr>
<td>(b) the words “, or to remain,” were omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsections (1A) and (2) are omitted.</td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Section 9C (removal of anonymous entry)</td>
</tr>
<tr>
<td>In subsection (3)(a), the reference to section 3 of the 1983 Act is to be read as a reference to section 3 of this Act.</td>
<td></td>
</tr>
<tr>
<td>Section 10 (maintenance of registers: duty to conduct canvass)</td>
<td></td>
</tr>
<tr>
<td>In subsection (3)(a), the reference to section 3 of the 1983 Act is to be read as a reference to section 3 of this Act.</td>
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</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modifications</td>
</tr>
<tr>
<td>--------------------------</td>
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<tr>
<td>Subsection (3)(b)(iii) is omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsection (4) is omitted.</td>
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</tr>
<tr>
<td>In subsection (5), the references to a form are to be read as references to the form referred to in section 8 of this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsection (6) has effect as if for “alterations” there were substituted “entries”.</td>
<td></td>
</tr>
<tr>
<td>In subsection (2A), the words “(subject to section 13BB(2))” are omitted.</td>
<td></td>
</tr>
<tr>
<td>In each of subsections (2A) and (5)(a), the reference to the 15th October in the year in question is to be read as a reference to the date on which the canvass form was received by the registration officer.</td>
<td></td>
</tr>
<tr>
<td>In subsection (3), the reference to the register in question is to be read as a reference to the register of young voters or the register of local government electors.</td>
<td></td>
</tr>
<tr>
<td>In subsection (4)(a), the reference to voting age is to be read as a reference to the age of 16 years.</td>
<td></td>
</tr>
<tr>
<td>In subsection (5)(a)(i), the reference to the form mentioned in section 10(4) is to be read as a reference to the form referred to in section 8 of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (5)(b), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to the publication of a revised version of a register under section 13 of the 1983 Act is to be read as a reference to the preparation of the register of young voters under section 4(1) of this Act.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1)(c), the words “or 58” are omitted.</td>
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<tr>
<td>Subsection (3) is omitted.</td>
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</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modifications</td>
</tr>
<tr>
<td>--------------------------</td>
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</tr>
<tr>
<td>In subsection (5)—</td>
<td></td>
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<tr>
<td>(a) the reference to a published version of a register of electors is to be read as a reference to the register of young voters, and</td>
<td></td>
</tr>
<tr>
<td>(b) the words “or section 13BB below” are omitted.</td>
<td></td>
</tr>
<tr>
<td>References to an election to which section 13B applies are to be read as references to an independence referendum.</td>
<td></td>
</tr>
<tr>
<td>References to the appropriate publication date are to be read as references to the fifth day before the date of the poll at an independence referendum.</td>
<td></td>
</tr>
<tr>
<td>References to the relevant election area are to be read as references to the area for which the registration officer acts.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to a published version of a register is to be read as a reference to the register of young voters.</td>
<td></td>
</tr>
<tr>
<td>In subsection (1), the reference to the registration of electors is to be read as a reference to registration in the register of young voters.</td>
<td></td>
</tr>
<tr>
<td>Subsections (1A), (2) and (8) are omitted.</td>
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</tr>
<tr>
<td>In subsection (1), the reference to the 1983 Act is to be read as including a reference to this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsection (2) is omitted.</td>
<td></td>
</tr>
<tr>
<td>Subsections (5) and (9) to (12) are omitted.</td>
<td></td>
</tr>
<tr>
<td>In paragraph (f), the reference to the age of 18 years is to be read as a reference to the age of 17 years.</td>
<td></td>
</tr>
<tr>
<td>Subsection (1)(b) is omitted.</td>
<td></td>
</tr>
<tr>
<td>References to the 1983 Act are to be read as including references to this Act.</td>
<td></td>
</tr>
<tr>
<td>Subsections (1), (1A), (3) and (5) are omitted.</td>
<td></td>
</tr>
</tbody>
</table>
### Provision of the 1983 Act | Modifications
--- | ---
Section 56 (registration appeals) | In subsection (4), paragraphs (a) and (aa) are omitted.

| | In subsection (1)(aa), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.

| | Subsection (1)(b) is omitted.

| | Subsections (3) and (4A) are omitted.

Section 57 (registration appeals: Scotland) | Subsections (3) to (4) are omitted.

Section 59 (supplemental provisions as to members of forces and service voters) | References to being subject to a legal incapacity to vote are to be read as references to being subject to a legal incapacity to vote within the meaning of section 2(2) of this Act.

| | Subsection (2) is omitted.

Section 62 (offences as to declarations) | References to “official duty” are to be read as including a duty imposed by virtue of this Act.

| | In subsection (3), paragraphs (a), (c) and (d) are omitted.

| | In subsection (3)(b), the words “returning officer or presiding officer” are omitted.

Section 63 (breach of official duty) | Subsections (4) and (5) are omitted.

| | References to “official duty” are to be read as including a duty imposed by virtue of this Act.

| | In subsection (3), paragraphs (a), (c) and (d) are omitted.

| | In subsection (3)(b), the words “returning officer or presiding officer” are omitted.

| | Subsections (4) and (5) are omitted.
## The Scottish Independence Referendum (Franchise) Bill

### Schedule 1 — Application of enactments

**Part 3 — Representation of the People (Scotland) Regulations 2001**

The provisions referred to in column 1 of the table are provisions in the Representation of the People (Scotland) Regulations 2001 (SI 2001/497).

<table>
<thead>
<tr>
<th>Provisions of the 2001 Regulations</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulation 3 (interpretation)</td>
<td>Paragraphs (2) to (4) are omitted.</td>
</tr>
<tr>
<td>Regulation 4 (forms)</td>
<td>In paragraph (1)—</td>
</tr>
<tr>
<td></td>
<td>(a) sub-paragraph (b) is omitted, and</td>
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<tr>
<td></td>
<td>(b) the reference to an election is to be read as a reference to an independence referendum.</td>
</tr>
<tr>
<td>Regulation 5 (communication of applications, notices etc.)</td>
<td>Paragraph (2) is omitted.</td>
</tr>
<tr>
<td>Regulation 6 (electronic signatures and related certificates)</td>
<td>In paragraph (2), the words “Subject to regulation 56(6) below,” are omitted.</td>
</tr>
<tr>
<td>Regulation 8 (time)</td>
<td>The reference to a registration officer’s registration duties is to be read as a reference to the officer’s duties by virtue of this Act.</td>
</tr>
<tr>
<td>Regulation 11 (interference with notices etc.)</td>
<td>In paragraph (1), the words “made by a member of the forces or his spouse or civil partner” are omitted.</td>
</tr>
<tr>
<td>Regulation 14 (service declarations: qualification for Crown servants)</td>
<td>Paragraphs (2) and (3) are omitted.</td>
</tr>
<tr>
<td>Regulation 15 (contents of service declaration)</td>
<td></td>
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<tr>
<td>Regulation 16 (transmission of service declaration)</td>
<td></td>
</tr>
<tr>
<td>Regulation 17 (notification by registration officer in respect of service declarations)</td>
<td></td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>------------------------------------</td>
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</tr>
<tr>
<td>Regulation 23 (power to require information)</td>
<td>Paragraph (2)(c) is omitted.</td>
</tr>
<tr>
<td>Regulation 24 (evidence as to age and nationality)</td>
<td>In paragraph (2)(d), the word “other” is omitted. In paragraph (3), the reference to section 54(1) of the 1983 Act is to be read as a reference to section 10(1) of this Act. Paragraphs (4) and (4A) are omitted.</td>
</tr>
<tr>
<td>Regulation 26 (applications for registration)</td>
<td>In paragraphs (1) to (3), the references to registration as a parliamentary or local government elector (or both) are to be read as references to registration in the register of young voters. In paragraph (1)(c), the reference to being registered as an elector is to be read as a reference to being registered in the register of young voters. Paragraph (1)(e) is omitted. In paragraph (1)(f), the words “except in the case of a person applying to be registered in pursuance of an overseas elector’s declaration,” are omitted. In each of paragraphs (2) and (5), the words “or an overseas elector’s declaration” are omitted. Paragraphs (6) to (10) are omitted.</td>
</tr>
<tr>
<td>Regulation 27 (objections to registration)</td>
<td>In paragraph (1)— (a) in paragraph (a), the reference to the name of a person is to be read as a reference to the name and address of the person, (b) sub-paragraphs (b) and (ba) are omitted. In paragraph (1)(d), the reference to the register is to be read as a reference to the register of young voters or the register of local government electors. In paragraph (1)(e), the reference to the electoral number is to be read as including a reference to the voter number.</td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>-----------------------------------</td>
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</tr>
<tr>
<td>Regulation 29 (procedure for determining applications for registration and objections without a hearing)</td>
<td>Paragraph (8) is omitted.</td>
</tr>
<tr>
<td>Regulation 30 (notice of hearing)</td>
<td></td>
</tr>
<tr>
<td>Regulation 31 (hearing of applications and objections)</td>
<td>In paragraph (1)(c), the word “13(5),” is omitted.</td>
</tr>
<tr>
<td>Regulation 31A (objections relating to applications that have been allowed, but before alterations to register have taken effect)</td>
<td>Paragraph (2)(a)(ii) is omitted.</td>
</tr>
<tr>
<td>Regulation 31B (other determinations by registration officer of entitlement to registration)</td>
<td>In paragraph (2)(b)(ii), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31C (summary procedure for determining in specified circumstances person has ceased to satisfy conditions for registration)</td>
<td>In paragraph (2)(c), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31D (procedure for reviewing entitlement to registration)</td>
<td>In each of paragraphs (5) and (8), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31E (list of reviews)</td>
<td>In paragraph (2)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. Paragraph (3) is omitted.</td>
</tr>
<tr>
<td>Regulation 31F (hearings of reviews)</td>
<td>In paragraph (6), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31G (anonymous registration: applications and declarations)</td>
<td></td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
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<tr>
<td>-----------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Regulation 31H (anonymous registration: determination of applications by registration officer)</td>
<td>In paragraph (1)(b), the reference to section 4 of the 1983 Act is to be read as a reference to section 5 of this Act.</td>
</tr>
<tr>
<td>Regulation 31I (anonymous registration: evidence consisting of relevant court orders or injunctions)</td>
<td></td>
</tr>
<tr>
<td>Regulation 31J (anonymous registration: evidence by attestation)</td>
<td></td>
</tr>
<tr>
<td>Regulation 32 (registration appeals)</td>
<td>In paragraph (1), the reference to a registration officer’s registration duties is to be read as a reference to the officer’s duties by virtue of this Act.</td>
</tr>
<tr>
<td>Regulation 32A (representations regarding clerical errors)</td>
<td>Paragraph (1) is omitted.</td>
</tr>
<tr>
<td>Regulation 35 (registration officer’s right to inspect certain records)</td>
<td>In paragraph (2), sub-paragraphs (a) and (aa) are omitted.</td>
</tr>
<tr>
<td>Regulation 36 (notices in connection with registration)</td>
<td></td>
</tr>
<tr>
<td>Regulation 36A (communication of notices made on polling day)</td>
<td></td>
</tr>
<tr>
<td>Regulation 37 (notice by registration officer of a change of address)</td>
<td></td>
</tr>
<tr>
<td>Regulation 40 (qualifying addresses which are not included in the register)</td>
<td>In paragraph (1), the reference to section 9(2)(b) of the 1983 Act is to be read as a reference to section 4(2)(b)(ii) of this Act. Paragraph (1)(b) is omitted.</td>
</tr>
<tr>
<td>Regulation 41 (order of names)</td>
<td>In paragraph (3)(b), the reference to electors is to be read as a reference to voters.</td>
</tr>
<tr>
<td>Regulation 41A (anonymous entries)</td>
<td>In paragraph (1), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. In paragraph (2)(b), the reference to electors is to be read as a reference to voters.</td>
</tr>
<tr>
<td>Provisions of the 2001 Regulations</td>
<td>Modifications</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Regulation 45A (record of anonymous entries)</td>
<td>In paragraph (1), the reference to a record of anonymous entries is to be read as a reference to a separate such record in relation to the register of young voters. In paragraph (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. In paragraph (4), the words “(in accordance with regulation 51(2)(d))” are omitted.</td>
</tr>
<tr>
<td>Regulation 45B (duties of registration officer and staff in relation to record of anonymous entries)</td>
<td>References to a referendum are to be read as references to an independence referendum. References to the counting officer at a referendum are to be read as references to a counting officer at an independence referendum. References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act. In paragraph (2), the words “returning officer at any election or” are omitted. In each of paragraphs (2)(b) and (4), the words “election or” are omitted. In paragraph (6), the definition of “counting officer” is omitted.</td>
</tr>
<tr>
<td>Regulation 45C (supply of record of anonymous entries to returning and counting officers)</td>
<td>References to a counting officer are to be read as references to a counting officer at an independence referendum. References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act. In each of paragraphs (1) and (3), the words “returning officer or” are omitted. In paragraph (4), for the words “an election or referendum (as the case may be)” there are substituted “an independence referendum”</td>
</tr>
</tbody>
</table>
### Part 4 — Other enactments

<table>
<thead>
<tr>
<th>Enactments</th>
<th>Modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any act of sederunt under section 57(2) or (3) of the 1983 Act (registration appeals: Scotland)</td>
<td>References to the record of anonymous entries are to be read as references to the separate such record in relation to the register of young voters kept under regulation 45A as applied by this Act. In paragraph (3)(b), the reference to a person’s electoral number is to be read as a reference to the person’s voter number. Paragraph (3)(d) is omitted. References to the provisions specified in paragraph (2) are to be read as references to regulation 45C(4). Paragraph (2) is omitted.</td>
</tr>
</tbody>
</table>
SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

SCHEDULE 2
(introduced by section 8)

CANDVASS FORM

To the occupier
[Address line 1]
[Address line 2]
[Address line 3]
[Address line 4]

The voting age for the referendum on Scottish independence is 16. British citizens, European Union citizens and qualifying Commonwealth citizens are entitled to vote.

If there are 15 year olds living at this address who will be 16 by the referendum on 18 September 2014, they should be registered using this form to make sure they can vote in the referendum. Please enter their details in Part 1 below, sign Part 2 and return the form. This is required by law. Please see over the page for more details.

If there are no 15 year olds living at this address who will be 16 by 18 September 2014, you do not need to complete or return this form.

People who are already 16 or older should not be registered using this form – their details should instead be entered on the annual canvass form (enclosed in the same envelope as this form).

<table>
<thead>
<tr>
<th>Part 1</th>
<th>15 year olds living at this address who will be 16 by 18 September 2014</th>
</tr>
</thead>
</table>

Please enter the names of 15 year olds living here who will be 16 by 18 September 2014 and are entitled to vote in the referendum, and whose names are not already printed below. Please cross out any names printed below that should not be on this form. Please also cross out and replace any incorrect information shown below.

<table>
<thead>
<tr>
<th>Please write in BLOCK LETTERS</th>
<th>Date of birth</th>
<th>Postal vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surname</td>
<td>First name and middle initials</td>
<td>Nationality</td>
</tr>
<tr>
<td>Tick here if the person wants a postal vote application</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Space left blank for local authority or Electoral Registration Office information.
It is an offence to give false information on this form.

I declare that, as far as I know, the details on this form are accurate and complete.

Signature _______________________________ Date __________

Print name _______________________________

Daytime phone number ___________________________

E-mail address ________________________________

You do not need to provide your phone number or email address, but it could prove helpful if we need to contact you. It will not be used or supplied for any other purposes.

To vote in the referendum on Scottish independence, each person needs to be registered. People who are already 16 or older should be registered using the annual canvass form (which also registers them to vote in other elections once they turn 18). This form collects the information we need to register young people who are 15 at the moment, but will be 16 by the referendum on 18 September 2014. If you do not respond to this form, they may not be able to vote in the referendum.

This form will only register these young people to vote in the independence referendum: it will not register them to vote in any other election or referendum. To vote in most elections and referendums voters need to be 18.

Who can register to vote in the referendum?

Age: To vote in the referendum, voters must be 16 or older on 18 September 2014. This means that a person will be able to vote if their date of birth is 18 September 1998 or earlier.

Residence: People normally register at the address where they reside. You should include people who are temporarily away (for example, on holiday, at boarding school or in hospital). If in doubt, please get in touch with your Electoral Registration Officer using the contact details below.

Nationality: People are entitled to register to vote in the referendum if they are:
- A British citizen
- A citizen of another EU country
- A qualifying Commonwealth citizen. This means a Commonwealth citizen who has leave to enter or remain in the UK, or who does not require such leave.

Details of people at this address

For each 15 year old being registered, you need to include:
- Their surname, first name and any middle initials.
- Their nationality. This will usually be shown on the person’s passport.
Their date of birth, in the format DD/MM/YY, so that we can confirm they will be 16 by the referendum. For example, 5 December 1997 should be entered as 05/12/97.

Whether the person wants a postal vote application form.

What happens to the information I provide on this form?

The details of the people registered on this form will be placed on a “Register of Young Voters”, which will be used only for the referendum. Electoral Registration Officers and their staff will be the only people who are legally entitled to see the Register of Young Voters.

Some organisations will need the names and addresses of everyone who is registered to vote in the referendum, including those who are on the Register of Young Voters. These include people who administer the referendum (such as the staff at polling stations) and the official campaign groups, who may send information to everyone registered to vote. These organisations will be given a list of the names and addresses (but not the dates of birth) of everyone registered to vote in the referendum. They will not be told how old anyone on the list is, and it will be against the law for them to share or publish the list.

If there are any concerns that inclusion in the Register of Young Voters may affect the personal safety of the young voter, or they do not wish to register using their current address, other registration options may be available. They may be able to use a previous address or to register anonymously. Please contact us to discuss.

How to get in touch with us if you need assistance or more information

[For completion by EROs]

Note: the form above is to be printed in a sans serif font.
Scottish Independence Referendum (Franchise) Bill

[AS PASSED]

An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland, including provision for the establishment of a register of young voters for the purposes of such a referendum.

Introduced by: Nicola Sturgeon
On: 11 March 2013
Bill type: Government Bill