

# **SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL**

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## **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.

## **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**

*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.<sup>1</sup> 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.

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<sup>1</sup> 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.

<i>Subject Matter</i>	<i>Section of Bill</i>	<i>Section of 1983 Act</i>	<i>Regulations from 2001 Regulations</i>
Franchise	2, 3, 5, 12		
Maintenance of RYV	4, 12	9A, 10A, 13A, 13B	4, 23, 24, 31C, 31D, 31E, 31F, 32A, 40, 41
Applications to RYV	13		5, 6, 26, 29, 30, 31, 31A, 37
Objections to applications			6, 27, 29, 30, 31, 31A
Declarations of local connection	7, 12	7B, 7C	3, 40
Conduct of canvass	8, Schedule 2	10	
Disclosure of RYV entries	9		26, 27, 31E, 36
ERO duties and	10	9A, 10, 52, 63	24, 30, 31, 31B, 35, 36A,

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

expenses			37, 45B, 45C, 45F
Anonymous registration in RYV	12	9B, 9C	3, 31G, 31H, 31I, 31J, 41A, 45A, 45B, 45C, 45F
Residence		5, 6, 7, 7A, 7B, 7C	31B
Offences		13D, 62, 63	11, 23, 115
Service qualifications		14, 15, 16, 17, 59	14, 15, 16, 17, 40
Registration appeals	Schedule 1 Part 3	13A, 56, 57	32

## **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<sup>2</sup>. 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.

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<sup>2</sup> 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<sup>3</sup> 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.<sup>4</sup> 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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<sup>3</sup> 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>)

<sup>4</sup> 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%.<sup>5</sup> 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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<sup>5</sup> Electoral Commission report on the costs of registration in Great Britain, December 2012  
[http://www.electoralcommission.org.uk/\\_data/assets/pdf\\_file/0007/152899/The-cost-of-electoral-registration-in-Great-Britain.pdf](http://www.electoralcommission.org.uk/_data/assets/pdf_file/0007/152899/The-cost-of-electoral-registration-in-Great-Britain.pdf)

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<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> 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.

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<sup>6</sup> <http://services.parliament.uk/bills/2012-13/electoralregistrationandadministration.html>

<sup>7</sup> Schedule 1, Part 2 of the Scottish Independence Referendum (Franchise) Bill.

<sup>8</sup> Schedule 1, Part 2 of the Scottish Independence Referendum (Franchise) Bill.

*Total of Estimated Costs*

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

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.

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**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.”

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**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.”

*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)**

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