Background

The Scottish Government is committed to ensuring that all 16 and 17 year olds are able to vote in the referendum on independence for Scotland in 2014. Young people take on a range of important rights and responsibilities at 16, and it is the Government’s view that they should therefore have the opportunity to have their say on the future of the society they are part of. In January we published the consultation paper Your Scotland, Your Referendum, which set out proposals for lowering the voting age (which is 18 for most elections) 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 policy1.

However, our original proposals would not have enabled all 16 year olds to vote. The proposals set out in Your Scotland Your Referendum sought to work within the existing electoral registration system, under which a person can only register to vote once they are already at least 16. This means that the annual household canvass - which would have been the main mechanism for populating the register of those eligible to vote in the referendum - only collects the details of those who are already at least 16. As the last canvass before the referendum is due to be conducted between Winter 2013 and Spring 2014, a large number of young people who will be old enough to vote in the referendum in Autumn 2014 would not be old enough to apply to be included on the register during the canvass, and would have needed to apply individually to the register once they were 16. This process would have created an additional administrative hurdle for young people, risking effectively disenfranchising many. Moreover, the cut-off point for registration to vote in a poll is 11 working days before the poll in question, so anyone who turned 16 within 11 working days of the referendum date would not have been able to register to vote.

We have therefore developed a set of proposals to ensure that all 16 and 17 year olds (who are not ineligible on other grounds) can vote in the referendum, and that the process for registering them is as straightforward and accessible as possible. To put these proposals into practice we would need to legislate to do the following things not covered by the draft Referendum Bill as published in January 2012:

- Give Electoral Registration Officers (EROs) a power – and a duty – to collect the information necessary to register eligible under-16s who will be 16 or over by 31 December 2014 (the latest date on which the referendum could be held under the terms of the agreement with the UK Government2). EROs will be asked to collect this information at the same time as they conduct the next annual household canvass.
- Require each ERO to collate this additional information into a Register of Young Voters for his or her area, which will contain the details of young people who will be 16 at the time of the referendum. (Those who will be aged

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1 See Your Scotland, Your Referendum: An Analysis of Consultation Responses, pp. 41-44. http://www.scotland.gov.uk/Publications/2012/10/3849
2 See the Edinburgh Agreement: http://www.scotland.gov.uk/About/Government/concordats/Referendum-on-independence
17 or over by the date of the referendum will be included on the normal registers of local government electors instead, as they currently are.)

- Give Electoral Registration Officers (EROs) a power and a duty to maintain the Register of Young Voters under rolling registration (that is, as any additional eligible young people register to vote in the referendum after the canvass).
- Prohibit Electoral Registration Officers from publishing the Register of Young Voters, and direct that they provide the material it contains only to a prescribed, limited group of people.

The Referendum Bill is due to be introduced to Parliament in early 2013, and expected to receive Royal Assent by the end of 2013. To ensure that EROs have the necessary powers to thoroughly prepare for and conduct the registration of under-16s in conjunction with the 2013/14 annual canvass, we need to legislate to give them these powers more quickly than the timescales for the Referendum Bill would allow. We therefore intend to extend the franchise to 16 and 17 year olds through separate, expedited legislation, which will be introduced in Spring 2013 and, if supported by the Parliament, be in place by the Summer. This annex explains in more detail our proposals for that legislation. The initial draft bill is also appended for reference, and the text indicates which sections of the draft legislation are relevant to proposals. The initial draft bill does not cover all of the proposals described here: some of the proposals will not require legislation, while others will be legislated for in the main Referendum Bill. We will continue to develop our policy and accompanying legislation over the coming weeks, in conjunction with electoral administrators and lawyers.
Current registration arrangements

1. Electoral Registration Officers (EROs) are required by law to regularly compile an up to date register of people in their area who are entitled to vote ("electors"). They obtain this information through the annual canvass of electors, which involves sending each household in their area an electoral registration form. Householders must ensure that the details of all those resident at their address who are eligible to vote are entered on the form. This includes the details of 16 and 17 year olds, whose names, dates of birth and nationalities are collected as part of the canvass.

2. The annual canvass usually runs from August to November, and the register of electors is published by the 1st of December each year. The published register includes the names, addresses and unique electoral numbers of all those who will be 18 (and therefore eligible to vote) by the time the next register is due to be published on or shortly before 1st December the following year. This means that it includes the details of those who are 17 at the time the register is published. The register includes the date at which each of these 17 year olds will become 18, to indicate when they will be entitled to vote. 16 year olds whose details have been collected as part of the canvass but who will not attain voting age before the next register is published are not included on the register. However, their details are stored as "sleeping" or potential attainers, and can be used to prepopulate the forms used for the next household canvass.

3. The register used varies slightly depending on the election, as the franchise varies from election to election (for example, Members of the House of Lords can vote in elections to the European Parliament but not in elections to the UK Parliament). The register used for the referendum will be based on that used for Scottish Parliament and local government elections, as the franchise for these elections most closely reflects residency in Scotland.

4. There are two versions of the register: full and edited. The full register is used for electoral purposes as well as for crime prevention/detection and for identity checks when credit is applied for. It can be viewed by members of the public (under supervision), and supplied when requested to a small, strictly controlled range of people, including returning officers, political parties/campaign groups and registered credit reference agencies. The edited register can be sold to any person or organisation, and can be used for commercial purposes such as

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3 The UK Government is introducing a new approach to registration (called Individual Electoral Registration, or IER) from 2014. To accommodate the timetable for these changes, the next annual canvass will be conducted slightly later than usual, tentatively scheduled from December 2013 – March 2014, and the next register will be published in Spring 2014. Cabinet Office is engaging with electoral administrators to agree exact dates.

4 Due to the postponement of the 2013 household canvass (as a result of the introduction of IER), the Spring 2014 register will include the details of more young people than usual: all registered 17 year olds and many 16 year olds. This is because, regardless of when in the year a register is actually published, legislation states that an applicant be included on the register if they will attain voting age within a year of the next 1 December. In the case of the Spring 2014 register, this means that all those who will be 18 by 1 December 2015 will appear on the published register.
marketing. Householders can indicate on the canvass form that they do not want their details to be included in the edited register.

**Proposals for the Register of Young Voters** (sections 4,5 and 9 of the initial draft bill)

5. As previously stated, eligibility to vote in the referendum will closely reflect eligibility to vote in Scottish Parliament and local government elections. The only difference will be that 16 and 17 year olds (who cannot vote in Scottish Parliament or local government elections) will be able to vote in the referendum.

6. The legislation we plan to introduce will give EROs the power – and a duty – to collect the details of under-16s who will be 16 or over by 31 December 2014 (the latest date on which the referendum could be held), in addition to the data they already collect on 16 and 17 olds. 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.

7. In order to collect these details for attainers under 16, we propose that a separate, additional form (the “young voters registration form”) designed specifically for their registration 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, should keep the administrative burden 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 main local government register of electors, so that we can place more stringent protections on the use of the information it contains.

8. We are considering two approaches to incorporating the details of sleeping attainers for the purposes of the referendum. (These are 16 year olds whose details have been entered onto the main canvass form, but who will not be old enough to be included on the published local government register of electors.) We could direct EROs to add sleeping attainers to the Register of Young Voters. This would mean that all electors for the referendum were recorded in one of two registers: the local government register (if they would be at least 18 by 1 December 2015), or the Register of Young Voters. Alternatively, if sleeping attainers were not added to the Register of Young Voters, they would simply remain in the local government records (but not part of the local government register). Under this approach the details of electors for the referendum would therefore be split across three sources: the local government register, the Register of Young Voters and the (unpublished) local government records. These alternative approaches to capturing sleeping attainers would have the same practical effect for the purposes of administering the referendum, as explained in paragraph 11.

9. Only EROs and their staff will have access to the Register of Young Voters. There will be no edited version of the Register of Young Voters for wider distribution. Neither the Register of Young Voters nor the completed young voters
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.\footnote{It should be noted that, even if sleeping attainers are not added to the Register of Young Voters, their details will not be available for purchase or for public inspection. This is because only the published local government register (which sleeping attainers do not appear on) is made available in these ways.} The local government register, which will hold the detail of the majority of voters, will itself continue to be available to a wider range of groups.

10. There are several groups who will need to access the names and addresses of all electors, including those on the Register of Young Voters. 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 electors on behalf of counting officers.
- 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 draft legislation). The campaign organisations need all electors’ details so that they can each send every elector 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 electors before casting their vote.

11. In order to provide these groups with the information they need without compromising the security of the details of those on the Register of Young Voters, before the details of young electors 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 10 will receive a single, merged register of all electors, which does not distinguish the details of young electors from the details of other electors (with one exception, explained in paragraph 12). The single merged register will:

- Include all those on the local government register.
- Include all those who, while not old enough to be included on the published local government register, will be at least 16 by the date of the referendum. If we add sleeping attainers to the Register of Young Voters (see paragraph 8), that Register will encompass all such young electors. The merged register would therefore be created by simply combining the local government register and the Register of Young Voters. Alternatively, if the Register of Young Voters captures only those whose details were entered on the young voters registration forms (i.e. those who were under 16 when the information was collected as part of the annual household canvass), or have subsequently been added to the Register of Young Voters having applied to vote when still under 16 (see paragraph 15), the merged register will need to be formed by combining both people on the Register of Young Voters and sleeping attainers from the local government.
records with the published local government register. The practical effect would be the same.

- Not include anyone on the Register of Young Voters who will still be under 16 by the date of the referendum.
- Not include the dates of birth of any electors.
- Not specify whether an elector is from the Register of Young Voters or from the local government registers.

12. The merged registers provided to counting officers shortly before the poll for use at polling stations will include one additional piece of information: a marker that will appear before the name of each young elector (i.e. those who are 16 or 17 on the date of the referendum).\(^6\) This marker will make it possible to determine the turnout among 16 and 17 year olds, and thus the impact of extending the franchise. This information is likely to be of interest to a wide range of observers. The marker will only appear on the merged registers used by electoral administrators for the poll.

13. No individual or group other than those listed in paragraph 10 will have access to the merged register. It will be an offence for the groups listed in paragraph 10 to distribute the merged register more widely, to disclose any information contained in it\(^7\) or to use it for any purpose other than the referendum.

**Rolling registration**

14. 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 your local electoral registration office. An individual might register on this “rolling” basis when they moved into a new area, changed their address within an area, or once they turned 16 and therefore became eligible to apply to the register. Between canvasses the register is updated monthly to include the new or updated registration details EROs have received. This latest version of the register is the one provided to counting officers.

15. We propose that the registration of young people who will be eligible to vote by the date of the referendum should mirror these arrangements. We anticipate that the majority of young people would register to vote in the referendum through completion of the Young Voters Registration form distributed alongside the annual household canvass form, but they will also be able to register on a “rolling” basis up until 11 working days before the referendum. Young people who are 16 or over when they register will be added to the local government records.

\(^6\) A range of markers are already used on the registers used at polling stations. For example, a certain letter may appear before an elector’s name in the register to indicate that they are an EU citizen who is only entitled to vote in local government and Scottish Parliamentary elections.

\(^7\) Except for information contained in the edited version of the local government register, which is already publicly available.
of electors, as they are under current arrangements. Young people who are under 16 when they apply would be added to the Register of Young Voters.  

16. The UK Government is introducing a new approach to registration (called Individual Electoral Registration) from 2014. Once the transition to IER has begun in Summer or Autumn 2014, rolling applications to the register will need to be made under the new system. This means that each individual, rather than the householder, will be responsible for registering themselves. We are currently considering whether these arrangements should apply to under-16s registering to vote in the referendum as well, and if so how best to approach this. The UK and Scottish Governments will work together to co-ordinate the interaction of the referendum with the introduction of IER, and to promote awareness of the new registration arrangements.

Registration of vulnerable young people (section 7 of the draft bill)

17. As described in paragraphs 9 - 13, we propose to restrict the availability of the data contained in the Register of Young Voters to ensure that young electors’ details are protected. However, we recognise that there are still circumstances in which, to ensure utmost security, a young person should be able to register without disclosing their address.

18. We therefore propose that young people in these circumstances should be able to register a “declaration of local connection” (which is a form available from EROs) at an address at which they have previously been resident, but 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 through an addressee of their choice (for example, the Local Authority responsible for their care). We would expect EROs to engage actively with Local Authorities and other bodies with responsibilities of care to promote awareness of these arrangements.

19. If they preferred, these young people would be able to apply to register to vote anonymously, as other electors are entitled to do. They would, however, need to satisfy the same requirements as applicants for anonymous voting currently do. (See also paragraph 21.)

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

Postal, proxy and anonymous registration

21. Other registration arrangements will be the same for 16 and 17 year old electors as they currently are for electors 18 and over. Those who will be at least 16 by

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8 If we took the approach that sleeping attainers were added to the Register of Young Voters (see paragraph 8), then 16 year olds applying on a rolling basis would, once added to local government records as sleeping attainers, also be added to the Register of Young Voters.
the date of the referendum will be able to apply to register anonymously and to vote by post. They will also be able to be designated as, and act as, proxy voters for other electors, and will be able to designate other electors to act as a proxy for them. These arrangements will only apply for the purposes of the referendum – young people would not be able to act as proxy voters at elections until they were of voting age for those elections (i.e. 18).

Electoral offences

22. Standard electoral offences will apply to the referendum. Electoral offences include:

- providing false registration details;
- registering when you are not entitled to do so;
- making a false or fraudulent postal or proxy voting application;
- impersonating someone else (be they living, deceased or fictitious) to vote on their behalf;
- voting more than once in the same election or referendum;
- impeding an elector from freely exercising their right to vote;
- attempting to corruptly influence an elector through providing them with food, drink, entertainment or other provision;
- bribing an elector.

The full list of voting offences applying to the referendum can be found at Schedule 5 of the draft Referendum Bill: http://www.scotland.gov.uk/Publications/2012/01/1006/downloads#res386122
In addition, the standard electoral registration offences set out in the Representation of the People Act 1983 will apply to the registration of those on the Register of Young Voters.

23. It is already possible for a young person under 16 to commit, and be prosecuted for, any of these offences. Extending the franchise for the referendum therefore does not create the potential for under-16s to commit an offence of which they could not previously have been guilty.

Marked registers

24. Marked registers are copies of the lists of electors used at polling stations, marked by the poll clerks to indicate which electors turned out to vote. There is also a marked register of absentee voters. The marked register includes each elector’s name, address and voter number, as well as any marker needed to indicate restrictions on which elections the person is entitled to vote in (for example, a marker might indicate that the elector is not eligible to vote in European Parliamentary elections). The marked registers are the only record of who has voted.

25. Normally the details of those who were attainers as of the previous 1 December (when the Electoral Register was last published) appear on the lists of electors used at polling stations, including the date at which each attainer will become 18, so that poll staff know whether they will be eligible to vote. These attainers’ details subsequently appear in the marked registers. However, as explained in
sections 11 and 12, under our proposals the registers used in polling stations for the referendum will only include the details of those who are old enough to vote by the date of the referendum – in other words, those who are at least 16 – and will not include any electors’ dates of attainment (from which dates of birth could easily be determined). Consequently all those who appear on the marked registers will be at least 16 years old, and no dates of birth will be disclosed. As explained in paragraph 12, the registers will include a marker to indicate which electors are under 18 on the date of the referendum.

26. Following an election, marked registers are usually made available for inspection by members of the public for one year. Candidates and political parties can also purchase a copy. They are generally used for two purposes: to check for fraud, and as a source of voter intelligence for political parties.

27. The draft Referendum Bill that we consulted on in January stipulates that, in line with standard electoral practice, electoral officers would be required to make marked registers used for their area in the referendum available for inspection by members of the public for one year after the referendum. However, the draft Bill does not provide for any other access to, or purchase of, the marked registers.

28. We would welcome views on whether we should:

i) retain the proposals set out in the draft Referendum Bill. The marked registers could be inspected by members of the public on request, but would not be available to any organisation or individual;

ii) make the marked registers available for inspection by members of the public, and available for purchase by the “designated organisations” (i.e. the official campaign organisations) only; or

iii) make the marked registers available for inspection by members of the public, and available for purchase by all permitted participants in the referendum. “Permitted participants” includes both the official campaign organisations and anyone else who registers with the Electoral Commission as intending to spend over £5000 on campaigning in the referendum.

Disposal of records

29. One year after the referendum, the marked registers will be destroyed. It will no longer be possible for members of the public to view the marked registers. If any organisation or individual has been permitted to purchase a copy of the marked registers, they will not be required to destroy their copies. However, they will remain subject to the restrictions outlined in paragraph 13.

30. The details of those on the Register of Young Voters will be transferred across to the local government records of electors, where they will be treated in the normal way as “sleeping attainers”. A sleeping attainer is normally someone who will not yet be 18 within a year of the following 1 December. Sleeping attainers’ details therefore do not appear on the published local government registers, and cannot
be accessed by any individual or organisation. EROs use the details of sleeping attainers to prepopulate electoral registration forms for future annual canvasses.