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Schedule—Application of enactments
Draft Referendum Franchise (Scotland) Bill

[CONSULTATION DRAFT - 7 DECEMBER 2012]

An Act of the Scottish Parliament to make provision about those who are entitled to vote in a referendum on the independence of Scotland from the rest of the United Kingdom held in pursuance of an Act of the Scottish Parliament; to establish a register of young voters for the purposes of such a referendum; and for connected purposes.

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—

(a) on the independence of Scotland from the rest of the United Kingdom, and

(b) held 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

A person is entitled to vote in an independence referendum if, on the date on which the poll at the referendum is to be 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 Union.

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.
Draft Referendum Franchise (Scotland) Bill

(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 this section—
   (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 this section 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) 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 31 December 2014.

(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
any purpose other than the purpose of an independence referendum the date of the
poll at which is on or after that date.

(3) 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, 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 and 3 of the schedule
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 the schedule, and
(b) the modifications (if any) in the corresponding entries in column 2 of the tables.

(2) Any form or other document prescribed under the 1983 Act for the purposes of or in
connection with registration in the register of local government electors for any area in
Scotland may be used (with such modifications as seem appropriate) for the purposes of
or in connection with registration in the register of young voters for that area.

7 Declaration of local connection: additional ground for young people

(1) This section applies for the purposes of the application, by virtue of section 6(1), 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) is under 18 years of age,
(b) does not fall within 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 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 this section.

(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) 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.

Alterations in registers

9 Alterations in the registers

(1) Subsection (2) applies to an alteration under section 13A(2) (alteration of registers) or 56 (registration appeals) of the 1983 Act in—

   (a) the register of local government electors for any area maintained under section 9 of the 1983 Act, or
   (b) the register of young voters for any area.

(2) If the alteration is to take effect after the fifth day before the date of the poll at an independence referendum, the alteration does not have effect for the purposes of the referendum.

(3) Subsections (2) to (6) of section 13B of the 1983 Act (alteration of registers: pending elections) apply in relation to an independence referendum as they apply in relation to an election to which that section applies but as if—

   (a) any reference to the register included a reference to the register of young voters,
   (b) any reference to the appropriate publication date were a reference to the fifth day before the date of the poll at the referendum,
   (c) any reference to the date of the poll at such an election were a reference to the date of the poll at the referendum,
   (d) any reference to the relevant election area were a reference to the area for which the registration officer acts,
   (e) any reference to the prescribed time on the day of the poll were a reference to 9pm on the date of the poll at the referendum,
   (f) any reference to the issuing of a notice in the prescribed manner were a reference to the issuing of the notice in such manner and form as the registration officer may determine.
(4) Section 13BB of the 1983 Act (election falling within canvass period) applies in relation to an independence referendum as it applies in relation to an election mentioned in subsection (1)(b) of that section but as if—

(a) any reference to the register included a reference to the register of young voters,
(b) any reference to notice of such an election were a reference to notice of the referendum,
(c) any reference to the appropriate publication date for such an election were a reference to the fifth day before the date of the poll at the referendum,
(d) any reference to the issuing of a notice in the prescribed manner were a reference to the issuing of the notice in such manner and form as the registration officer may determine,
(e) subsection (2)(e) were omitted.

General

10 Further provision about entitlement to vote, etc.

(1) The Scottish Ministers may, by regulations, make further provision about entitlement to vote at an independence referendum, including, in particular, provision about—

(a) the register of young voters,
(b) the register of local government electors for any area in Scotland,
(c) registration in those registers, or
(d) any other matter connected with those registers or such registration.

(2) Regulations under subsection (1) may—

(a) modify any enactment (including this Act),
(b) apply with modifications any provision of any enactment.

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

11 Interpretation

(1) In this Act—

“the 1983 Act” means the Representation of the People Act 1983,
“area”, in relation to a registration officer, means the area for which the officer acts in relation to the registration of local government electors,
“registration officer” means a registration officer appointed under section 8(3) of the 1983 Act.

(2) Any word or expression used in this Act that is also used in the 1983 Act has the same meaning for the purposes of this Act as it has for the purposes of the 1983 Act.

(3) 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.

(4) 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 of voting in an independence referendum on that date by virtue of section 3.

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

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

APPLICATION OF ENACTMENTS

PART 1

GENERAL MODIFICATIONS

In any enactment as applied by this schedule, unless the context requires otherwise—

(a) references to any register of electors (however expressed) are to be read as if they included references to the register of young voters,

(b) any reference to a prescribed form or other document is to be read in accordance with section 6(2), and

(c) subject to paragraph (b), “prescribed” means prescribed in an enactment specified in Part 3 of this schedule as that enactment is applied by section 6(1).

PART 2

THE 1983 ACT

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

<table>
<thead>
<tr>
<th>Provision of the 1983 Act</th>
<th>Modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 5 (residence: general)</td>
<td></td>
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<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></td>
</tr>
<tr>
<td>Section 7A (residence: persons remanded in custody etc.)</td>
<td></td>
</tr>
<tr>
<td>Section 7B (notional residence: declaration of local connection)</td>
<td>In subsection (3)(f), the reference to the age of 18 years is to be read as a reference to the age of 16 years. Subsections (5) to (7) are omitted.</td>
</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modification</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Section 7C (effect of declaration of local connection)</td>
<td></td>
</tr>
<tr>
<td>Section 9A (registration officers: duty to take necessary steps)</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>Section 9B (anonymous registration)</td>
<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>
</tr>
<tr>
<td></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. [reference to prescribed form kept meantime]</td>
</tr>
<tr>
<td>Section 9C (removal of anonymous entry)</td>
<td>In subsection (8), the reference to the returning officer for any election is to be read as [ ….. ]</td>
</tr>
<tr>
<td>Section 10 (maintenance of registers: duty to conduction canvass)</td>
<td>Subsection (1) has effect as if—</td>
</tr>
<tr>
<td></td>
<td>(a) for “an annual canvass” there were substituted “a canvass”, and</td>
</tr>
<tr>
<td></td>
<td>(b) the words “, or to remain,” were omitted.</td>
</tr>
<tr>
<td>Section 10A (maintenance of registers: registration of electors)</td>
<td>In subsection (4)(a), the reference to voting age is to be read as a reference to the age of 16 years.</td>
</tr>
<tr>
<td>Section 13A (alteration of registers)</td>
<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>
</tr>
<tr>
<td></td>
<td>Subsection (3) is omitted.</td>
</tr>
<tr>
<td></td>
<td>In subsection (5), the reference to a published version of a register of electors is to be read as a reference to the register of young voters.</td>
</tr>
<tr>
<td>Provision of the 1983 Act</td>
<td>Modification</td>
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<td>------------------------------------------------------------------</td>
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<tr>
<td>Section 13D (provision of false information)</td>
<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>
</tr>
<tr>
<td>Section 14 (service qualification)</td>
<td></td>
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<tr>
<td>Section 15 (service declaration)</td>
<td>Subsections (5) and (9) to (12) are omitted.</td>
</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 16 years.</td>
</tr>
<tr>
<td>Section 17 (effect of service declaration)</td>
<td></td>
</tr>
<tr>
<td>Section 52 (discharge of registration duties)</td>
<td>The references to the 1983 Act are to be read as including references to this Act.</td>
</tr>
<tr>
<td>Section 54 (payment of expenses of registration)</td>
<td>The references to the 1983 Act are to be read as including references to this Act.</td>
</tr>
<tr>
<td>Section 56 (registration appeals)</td>
<td></td>
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<tr>
<td>Section 57 (registration appeals: Scotland)</td>
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</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>The 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 11(4).</td>
</tr>
<tr>
<td></td>
<td>Subsection (2) is omitted.</td>
</tr>
</tbody>
</table>
### Provision of the 1983 Act

| 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. |

### PART 3

**SUBORDINATE LEGISLATION**

<table>
<thead>
<tr>
<th>Enactment</th>
<th>Modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>[Details of statutory instruments to be added]</td>
<td></td>
</tr>
</tbody>
</table>