SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) BILL

LETTER TO THE CONVENER FROM NICOLA STURGEON, DEPUTY FIRST MINISTER

The Committee's Stage 1 Report on the Scottish Independence Referendum (Franchise) Bill called on the Scottish Government “in discussion with the UK Government, to explore all possible options for enabling young people to vote if they are of voting age and are only resident outside Scotland because the family has moved to be with a parent serving in the armed forces, and to report on this prior to Stage 2”.

We have investigated the options for allowing these young people to register to vote in the referendum and the attached note sets out the background, an estimate of the scale of the issue and options for change.

The Scottish Government does not intend to propose any changes to the Scottish Independence Referendum (Franchise) Bill at this stage. However, we will consider the issue further, along with any views the Committee and others might provide on the principles involved and the practicalities of making provision for this small group of 16 and 17 year olds. Depending on the outcome of this further consideration, amendments could be proposed at Stage 2 or 3 of the Scottish Independence Referendum Bill in the autumn.

Nicola Sturgeon
4 June 2013

CHILDREN OF SERVICE PERSONNEL REGISTERED AS SERVICE VOTERS

Background

1. The arrangements for service personnel to register for, and vote in, the referendum will be the same as for local government and Scottish Parliamentary elections. Service personnel can choose to register in one of three ways (depending on their personal circumstances): as ordinary voters, as service voters (through a service declaration) or as overseas voters. Around one third of those service personnel who are registered to vote in Scotland are registered as service voters (see para 9 below).

2. During Stage 1 evidence, the Committee heard that while the spouses and civil partners of service personnel living outside Scotland could make a service declaration, there is no provision for eligible children of service voters to do likewise. The Committee noted that this is the case at present for all other polls.

3. In paragraph 63 of the Committee’s Stage 1 report, the Committee urged:

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

4. During the Stage 1 debate in Parliament on 14 May the Deputy First Minister said:

“I note the Committee’s recommendation on this matter and reassure Parliament that the Government will investigate the possible options for allowing young people who live outside Scotland with a parent who is a service voter to register to vote in the referendum. We are talking about a small group of people, but we will nevertheless consider their position and report to the Committee before Stage 2”.

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Current Situation

5. Sections 14 to 16 of the Representation of the People Act 1983 set out the legislative basis for service declarations (including the fact that only those with a service qualification may make such a declaration).

6. Section 14, which was amended in 2005 to extend the right to make a service declaration to the civil partner of a member of the armed forces, provides that the following have a service qualification:

   a) a member of the forces;
   b) an employee in the service of the Crown in a post outside the UK of any prescribed class or description;
   c) an employee of the British Council in a post outside the UK;
   d) the spouse or civil partner of a member of the forces;
   e) the spouse or civil partner of a person mentioned in b) or c) above and residing outside the UK to be with his or her spouse or civil partner.

7. The Scottish Government intends to use the register of voters for local elections in Scotland as the franchise for the Referendum with the addition of 16 and 17 year olds who would otherwise meet the criteria for inclusion on the register. Current (reserved) legislation relating to the local government register (and the register for Westminster and European Parliament elections) does not allow the children (old enough to register) of those who make a service declaration to register as an adjunct to their parent. This is most probably because an 18 year old son or daughter of a service voter is deemed to be an adult who is able to decide for themselves where they want to live. If they choose to live overseas they can register as an overseas elector, if qualified to do so. Individuals registered as overseas electors can vote in Westminster and European Parliament elections, but not in local government and Scottish Parliament elections. They are not eligible to vote in the referendum.

8. Section 1(4) of the Representation of the People Act 1985 allows an overseas elector registration where a young person’s parent was previously registered at a UK address where the young person resided. Under current electoral legislation therefore, the children of service personnel (who are of voting age) are regarded as overseas electors and so may be eligible for the Westminster Parliamentary franchise but not the local government one.

Scale of the Issue / Numbers Involved

9. The Electoral Commission, Cabinet Office and Ministry of Defence do not hold any figures on the number of young people likely to be in this situation for the referendum in 2014. The estimates they can provide on registration are taken from the Armed Forces Continuous Attitude Survey (CAS). According to Cabinet Office advice, that survey for 2012 indicated that 28% of all service personnel who were registered voters were registered using the service declaration, with 71% registered as ordinary voters and 1% as overseas voters (when the MoD gave evidence to the Scottish Affairs Committee on this issue, they put the split between service voters and ordinary voters as accounting for roughly one-third and two-thirds respectively of those registered).

10. The Electoral Commission has investigated with the Ministry of Defence whether it is possible to obtain any statistics on children of service voters who, if of voting age, would be eligible to vote in Scotland (but live outwith Scotland). They confirmed that the CAS, which
is anonymised, does ask about dependents, but does not show where the service voter is registered, or the age of any dependent children. No other databases held by the MoD link individuals and where they are eligible to vote.

11. The closest approximation to a figure is therefore obtained by looking at how many spouses or civil partners are registered as an ‘adjunct’ to the declaration made by their service voter partner, as – given the nature of work involved - this would seem to be the group of service voters most likely to have children residing with them. Information received from the 15 Electoral Registration Officers across Scotland confirms that there are currently 2489 registered service voters on the local government register in Scotland. 10 of those EROs have been able to differentiate between service personnel and their spouses or civil partners. It is clear from the figures they do have that only a very small proportion of people register as an “adjunct” to such declarations by a partner. The attached table shows that, in the areas where EROs were able to provide a breakdown, 1527 were service personnel and 149 were spouses or civil partners. Applying the same percentage to the total number of service voters currently on the register suggests that, of 2489 service declarations, around 242 would have been made by a spouse of a civil partner.

12. As only a proportion of any children living with these parents are likely to be 16 or 17 on 18 September 2014, the potential number of children involved is therefore likely to be very small. The likely range is therefore zero to low hundreds of individuals, with the number likely to be towards the lower end of this range.

Options for change

Possible Amendment to Franchise Bill

13. The Scottish Government has investigated with the UK Government options for allowing such children to vote in the referendum by amending UK legislation. However, it is clear that, if any change were to be made, it would be simpler, clearer and more appropriate given the purpose (i.e. for the referendum only, and not wider electoral arrangements) to make any changes through Scottish Parliament legislation.

14. Broadly, this could be done by enabling children of service voters who will be aged 16 or 17 on the date of the referendum to register to become an additional category of young voter on the Register of Young Voters. This could be done by creating a new route to the Register of Young Voters which required an Electoral Registration Officer to be satisfied that the young person fell into that age group and was the child of a person who appeared on the local government electoral register by virtue of a service declaration (whether as a member of the forces or as the spouse or civil partner of a member of the forces).

Scottish Government view

15. Making changes of this nature to the registration process requires careful consideration. It is therefore important that any proposed change is given that full and detailed consideration by the Scottish Government, the Scottish Parliament and by those who operate the registration systems. Any conclusion needs to be reached on the basis of as complete information as possible.

16. Given that service declarations do not form part of the annual household canvass, such provision would not need to be in place in time for the commencement of that exercise, in October 2013, and so would not need to form part of the Scottish Independence Referendum (Franchise) Bill before it completes its parliamentary passage. The Scottish
Government does not therefore intend to propose any changes to the Bill at this stage. We will consider the issue further, along with any views the Committee and others provide on the principles involved and the practicality of making provision for this small group of 16 and 17 year olds.

17. Although the Scottish Independence Referendum (Franchise) Bill will complete its Parliamentary passage later this month, that would not prevent further Parliamentary consideration of the issue. The Scottish Independence Referendum Bill will still be before the Parliament in the autumn, and amendments could be proposed at Stages 2 or 3 of that Bill to address the issue.