

Scottish Elections (Franchise and Representation) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 10
Long Title

Schedule

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Michael Russell

- 1 In section 1, page 1, line 10, leave out from <for> to end of line 12 and insert <—
- (a) after “or” insert “—
 - (i) except in Scotland,”,
 - (b) after “Union;” insert—
 - “(ii) in Scotland, a qualifying foreign national,”>

Michael Russell

- 2 In section 1, page 1, line 14, leave out from <for> to end of line 15 and insert <—
- (a) after “or” insert “—
 - (i) except in relation to a local government election in Scotland,”,
 - (b) after “Union;” insert—
 - “(ii) in relation to a local government election in Scotland, a qualifying foreign national,”>

Michael Russell

- 3 In section 1, page 1, line 16, leave out <7B(3)> and insert <7B>

Michael Russell

- 4 In section 1, page 1, line 16, leave out <, in paragraph (e)> and insert <—
- (a) in subsection (3)(e)—
 - (i) after “elections” insert “other than in Scotland”, and
 - (ii)>

Michael Russell

- 5 In section 1, page 1, line 18, at end insert <, and

(b) in subsection (7B), after paragraph (ab) (inserted by section 6(2)(c) of this Act) insert—

“() a declaration of local connection made by a qualifying foreign national.”.>

Michael Russell

6 In section 1, page 1, line 18, at end insert—

<() In section 15(5B) (service declaration), after paragraph (a) insert—

“(aa) a service declaration made by a qualifying foreign national.”.>

Michael Russell

7 In section 1, page 1, line 19, after <(e)> insert <—

(a) after “or” in the second place it occurs insert “(except where the declaration is made for the purposes only of the registration of local government electors in Scotland)”, and

(b)>

Michael Russell

8 In section 1, page 1, line 22, after <(c)> insert <—

(a) after “or” in the second place it occurs insert “(in relation to a declaration made other than for the purposes of the registration of local government electors in Scotland)”, and

(b)>

Mark Ruskell

21 In section 1, page 1, line 28, at end insert—

<() In section 53(1) (power to make regulations as to registration etc.), after paragraph (b) insert—

“(ba) with respect to any identification necessary for a qualifying foreign national, as defined in section 202, to be registered in the register of electors in relation to local government elections in Scotland.”.>

Michael Russell

9 In section 1, page 2, line 4, leave out from <, a> to <Union> in line 5 and insert <or a citizen of the Republic of Ireland>

Mark Ruskell

22 In section 1, page 2, line 10, after <being> insert <—

(A)>

Mark Ruskell

23 In section 1, page 2, line 12, at end insert—

<(B) has made an application to enter or remain in the United Kingdom as a refugee but that application is yet to be determined by the Secretary of State, or

(C) is a dependent of a person mentioned under paragraph (b)(ii)(B) within the meaning of section 20 of the Nationality, Immigration and Asylum Act 2002.”.>

Section 2

Michael Russell

10 In section 2, page 2, line 15, after <disqualification> insert <—

(a) subsection (2) is repealed,

(b)>

Michael Russell

11 In section 2, page 2, line 17, leave out <other than a citizen of the European Union>

Michael Russell

12 In section 2, page 2, line 21, leave out from <either> to <(i)> in line 22 and insert <meets one of the conditions mentioned in subsection (2B).

(2B) The conditions are that the person—

(a)>

Michael Russell

13 In section 2, page 2, line 27, leave out <(ii)> and insert <(b)>

Michael Russell

14 In section 2, page 2, line 27, after <being> insert <—

(i)>

Mark Ruskell

24 In section 2, page 2, line 28, leave out <indefinite> and insert <any>

Mark Ruskell

25 In section 2, page 2, line 29, after <Act> insert <subject to such exceptions as the Scottish Ministers may by regulations prescribe>

Michael Russell

15 In section 2, page 2, line 29, at end insert <, or

(ii) has pre-settled status.

5

(2C) For the purposes of subsection (2B)(b)(ii), a person has pre-settled status if the person has limited leave to remain in the United Kingdom granted by virtue of residence scheme immigration rules (within the meaning of section 17(1) of the European Union (Withdrawal Agreement) Act 2020).”>

Mark Ruskell

15A As an amendment to amendment 15, line 2, leave out <pre-settled status> and insert <limited leave to remain>

Mark Ruskell

15B As an amendment to amendment 15, line 3, leave out <pre-settled status> and insert <limited leave to remain—

(a)>

Mark Ruskell

15C As an amendment to amendment 15, line 6, at end insert <, or

(b) if the person has limited leave to remain in the United Kingdom by virtue of such other enactments as the Scottish Ministers may by regulations prescribe.

(2D) Regulations under subsection (2C)(b) are subject to the affirmative procedure.”>

Mark Ruskell

26 In section 2, page 2, line 29, at end insert—

<() Regulations under subsection (2B)(b)(i) are subject to the affirmative procedure.>

Section 3

Michael Russell

16 In section 3, page 2, line 34, leave out <after “Union” insert “or a> and insert <for “relevant citizen of the Union” substitute “>

Michael Russell

17 In section 3, page 2, line 35, leave out from <after> to <(i)> in line 2 on page 3 and insert <the following definitions are repealed—

“citizen of the Union”,

“relevant citizen of the Union”.

() After subsection (4) insert—

“(5) For the purposes of this section, a “qualifying foreign national” means a person of any nationality who—

(a) is not a Commonwealth citizen or a citizen of the Republic of Ireland,
and

(b) meets one of the conditions mentioned in subsection (6).

(6) The conditions are that the person—

(a)>

Michael Russell

18 In section 3, page 3, line 8, leave out <(ii)> and insert <(b)>

Michael Russell

19 In section 3, page 3, line 8, after <being> insert <—

(i)>

Mark Ruskell

27 In section 3, page 3, line 10, leave out <indefinite> and insert <any>

Mark Ruskell

28 In section 3, page 3, line 11, after <Act> insert <subject to such exceptions as the Scottish Ministers may by regulations prescribe>

Michael Russell

20 In section 3, page 3, line 11, at end insert <, or

(ii) has pre-settled status.

(7) For the purposes of subsection (6)(b)(ii), a person has pre-settled status if the person has limited leave to remain in the United Kingdom granted by virtue of residence scheme immigration rules (within the meaning of section 17(1) of the European Union (Withdrawal Agreement) Act 2020).”>

5

Mark Ruskell

20A As an amendment to amendment 20, line 2, leave out <pre-settled status> and insert <limited leave to remain>

Mark Ruskell

20B As an amendment to amendment 20, line 3, leave out <pre-settled status> and insert <limited leave to remain—

(a)>

Mark Ruskell

- 20C As an amendment to amendment 20, line 6, at end insert <or,
- (b) if the person has limited leave to remain in the United Kingdom by virtue of such other enactments as the Scottish Ministers may by regulations prescribe.
 - () Regulations under subsection (7)(b) are subject to the affirmative procedure.”.>

Mark Ruskell

- 29 In section 3, page 3, line 11, at end insert—
- <() Regulations under subsection (6)(b)(i) are subject to the affirmative procedure.”.>

Section 4

Jamie Halcro Johnston

- 30 In section 4, page 3, leave out lines 30 to 40 and insert—
- <“(1A) A convicted person is not legally incapable of voting at a local government election in Scotland by virtue of subsection (1) where that person is subject to temporary release on license from a penal institution on the day of the poll.
 - (1B) The Scottish Ministers may by regulations make such provision as they consider necessary to enable convicted persons not legally incapable of voting by virtue of subsection (1A) to vote.
 - (1C) Regulations under subsection (1B) are subject to the affirmative procedure.”.>

Mark Ruskell

- 31 In section 4, page 3, line 33, leave out <12> and insert <48>

After section 4

Liam McArthur

- 32 After section 4, insert—
- <**Review of first operation of section 4**
 - (1) The Scottish Ministers must—
 - (a) undertake a review of the operation of section 4 of this Act with a view to considering whether the length of sentence expressed in section 3(1A) of the Representation of the People Act 1983 is appropriate,
 - (b) prepare and publish a report on that review.
 - (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.
 - (3) In carrying out the review, the Scottish Ministers must consult such persons as they consider appropriate.

- (4) The report on the review must be prepared, published and laid before the Scottish Parliament no later than 12 months after the first relevant national election in Scotland following the coming into force of section 4.
- (5) For the avoidance of doubt, the review is not required following a Scottish parliamentary or local government by-election.>

Liam McArthur

33 After section 4 insert—

<Review of first operation of section 4

- (1) The Scottish Ministers must—
 - (a) undertake a review of the operation of section 4 with a view to considering whether—
 - (i) the length of sentence expressed in section 3(1A) of the Representation of the People Act 1983 is appropriate,
 - (ii) eligibility for voting by convicted persons detained in penal institutions should be based on type of offence rather than length of sentence,
 - (b) prepare and publish a report on that review.
- (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.
- (3) In carrying out the review, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) The report on the review must be prepared, published and laid before the Scottish Parliament no later than 12 months after the first relevant national election in Scotland following the coming into force of section 4.
- (5) For the avoidance of doubt, the review is not required following a Scottish parliamentary or local government by-election.>

Section 5

Jamie Halcro Johnston

34 Leave out section 5

Section 6

Jamie Halcro Johnston

35 Leave out section 6

After section 6

Jamie Halcro Johnston

36 After section 6, insert—

<Election meetings on the prison estate

Before section 95 of the Representation of the People Act 1983 (schools and rooms for parliamentary election meetings) insert—

“94A Election meetings on the prison estate

- (1) A candidate at a local government election in Scotland or Scottish parliamentary election may hold a meeting in furtherance of the candidate’s candidature on the prison estate subject to meeting the requirements set out in subsections (2) to (9).
- (2) The candidate must make an application to the relevant prison governor not less than 14 days before the date of the meeting.
- (3) An application made under subsection (2) must include a list of the candidates and other persons who will be attending the meeting.
- (4) Having received an application under subsection (2) the relevant prison governor, or such person as may be nominated by the relevant prison governor, must seek the consent of relevant candidates to the holding of the meeting.
- (5) For the purposes of subsection (4)—
 - (a) where the candidate to attend is a candidate for a constituency in a Scottish parliamentary election, the relevant candidates are the other candidates for that constituency,
 - (b) where the candidate to attend is a candidate for a region in a Scottish parliamentary election, the relevant candidates are the other candidates for that region,
 - (c) where the candidate to attend is a candidate for a ward in an election to be a member of a local authority in Scotland, the relevant candidates are the other candidates for that ward.
- (6) Consent to the holding of a meeting may be given by a relevant candidate or by the election agent of a relevant candidate.
- (7) For the avoidance of doubt, consent by the relevant candidates mentioned in subsection (5)(b) is only necessary where the candidate is a regional candidate only and is not a candidate in a constituency at the relevant election.
- (8) A meeting on a prison estate may only take place if—
 - (a) all those that are required to give their consent to the holding of the meeting have done so,
 - (b) the relevant prison governor has undertaken a risk assessment and has concluded that the meeting would not pose an unreasonable risk to—
 - (i) the safety of candidates,
 - (ii) the safety of prison staff,
 - (ii) the safety of prisoners,

- (iv) the prison estate.
- (9) The relevant prison governor must inform—
 - (a) all of the candidates for the constituency in which the prison estate is situated if the meeting relates to a Scottish Parliament election, or
 - (b) all of the candidates for the ward in which the prison estate is situated if the meeting relates to an election to be a member of a local authority in Scotland,
 that a meeting is to be held on the prison estate.
- (10) For the purposes of this section, the “relevant prison governor” means the governor of the prison estate on which the candidate is seeking to hold the meeting.”.>

Section 7

Jamie Halcro Johnston

- 37 Leave out section 7

Section 7A

Jamie Halcro Johnston

- 38 Leave out section 7A

After section 7A

Jamie Halcro Johnston

- 39 After section 7A, insert—

<PART

REVIEW OF THE ACT

Review of the impact of the Act on security of elections

- (1) The Scottish Ministers must—
 - (a) during the review period, review the operation of this Act generally and with a view to considering the impact of the Act on—
 - (i) the integrity of elections,
 - (ii) engagement with electors, particularly electors enfranchised by virtue of this Act,
 - (iii) voter turnout,
 - (iv) registration and identification of electors,
 - (v) candidates,
 - (vi) electoral offences, and
 - (b) prepare and publish a report on that review.

- (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.
- (3) In carrying out the review, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) The report on the review must be prepared, published and laid before the Scottish Parliament no later than 12 months after the end of the review period.
- (5) The “review period” is the period of 1 year beginning with the day on which the first Scottish parliamentary or local government election in Scotland takes place following the day of Royal Assent.>

Schedule

Jamie Halcro Johnston

40 Leave out the schedule

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For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@scottish.parliament.uk
