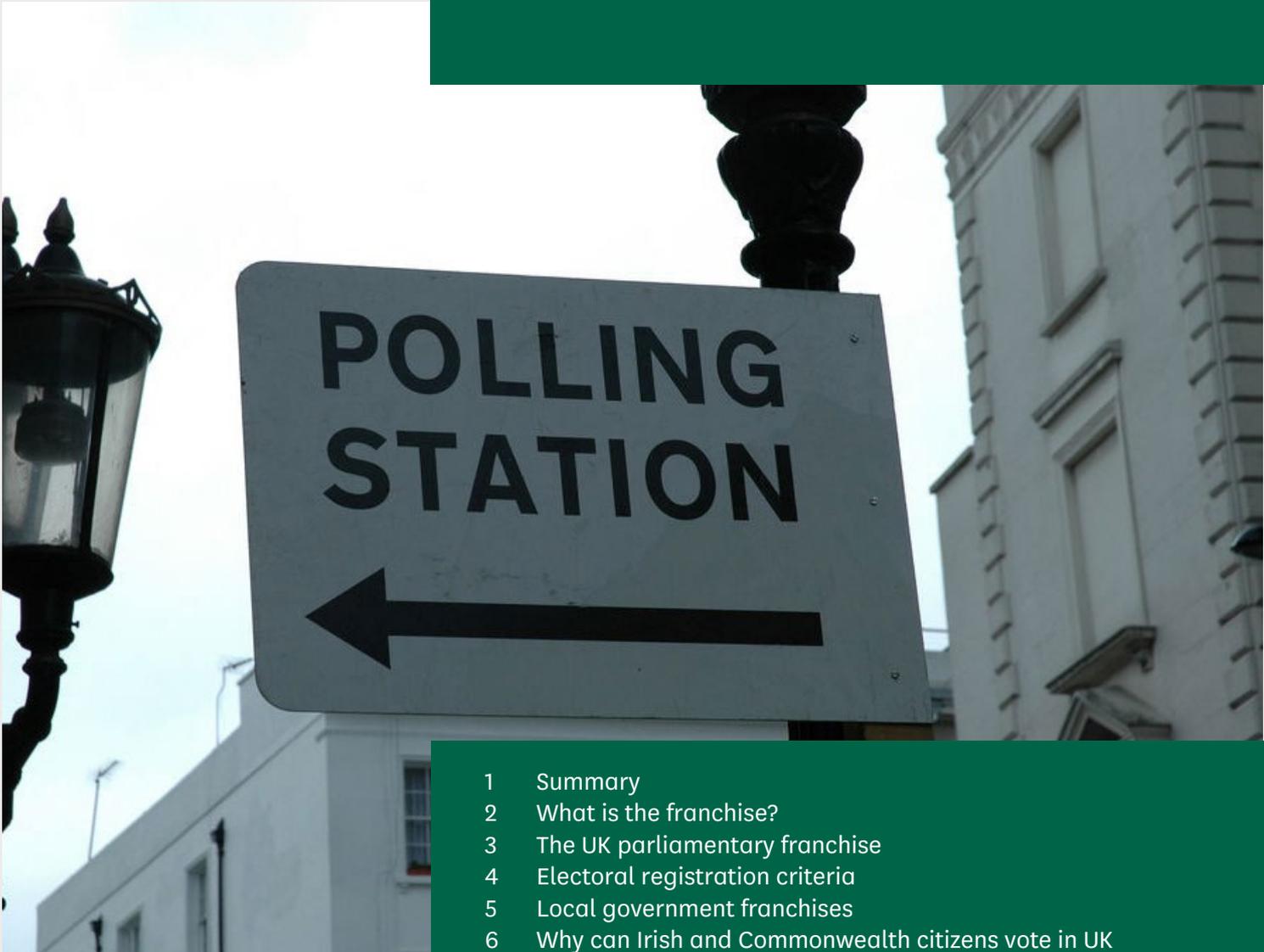


By Neil Johnston

11 July 2024

Who can vote in UK elections?



- 1 Summary
- 2 What is the franchise?
- 3 The UK parliamentary franchise
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- 6 Why can Irish and Commonwealth citizens vote in UK elections?
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1

Summary

All democratic countries have rules about who has the right to vote, known as the franchise, in their elections. This is usually based on nationality, age and residence.

The right to vote in national and local elections may vary. Most countries restrict voting in national elections to their own citizens, but some allow foreign nationals to vote in local elections.

This briefing explains the franchise and who has the right to register to vote in elections in the UK. It also provides information on some of the registration criteria, such as residence, nationality and legal incapacity to vote.

In recent years the rules on who can vote in which election in the UK have diverged depending which part of the UK someone lives in. The right to vote in UK elections is summarised in the table at the end of this overview.

UK Parliament elections

Across the whole of the UK, to vote in an election for the UK Parliament someone must:

- be registered to vote in the constituency
- be of voting age – 18 years old on polling day
- be either a British citizen, a qualifying Commonwealth citizen or a citizen of the Republic of Ireland
- and not be subject to any ‘legal incapacity’ to vote – prisoners serving a sentence for a conviction cannot vote in UK parliamentary elections and neither can peers in the House of Lords.

The eligibility of Irish and Commonwealth citizens to vote in UK elections comes from the historic links between the UK and Ireland and between the UK and countries of the former British Empire.

Local and devolved elections

Eligibility to vote in local and devolved elections depends on which part of the UK someone lives.

The franchise for devolved elections in Scotland and Wales is the responsibility of the respective devolved administrations. The devolved elections in Scotland and Wales include local council elections and elections to the Scottish and Welsh Parliaments. Both have made changes to reduce the voting age and to allow foreign nationals to vote. Elections in Northern Ireland are not devolved.

England and Northern Ireland

For local elections in England and Northern Ireland the rules are the same as they are for UK Parliament elections with three main exceptions.

- Members of the House of Lords can vote in local elections if they meet the age and residency requirements
- Some EU citizens can vote in local elections (the eligibility is explained below)
- Overseas voters cannot vote in local elections

Scotland

As in England British, Irish and qualifying Commonwealth citizens can vote. Members of the House of Lords can vote, and overseas voters cannot. The main differences for Scottish Parliament elections and local elections in Scotland are:

- Registered 16-year-olds and 17-year-olds can vote
- All legally resident foreign nationals can also register to vote (not just EU citizens)
- Convicted prisoners who are detained and serving a sentence of 12 months or less may now register to vote in local and Scottish Parliament elections.

Wales

In Wales the franchise has also been expanded for Senedd Cymru and local elections:

- Registered 16-year-olds and 17-year-olds can vote

- All legally resident foreign nationals can also register to vote for local elections and Senedd Cymru elections (not just EU citizens).

Decisions on police and crime commissioner (PCC) elections are reserved to the UK Government. The voting age remains 18 for PCC elections in Wales and only registered British citizens and qualifying Commonwealth and Irish citizens can vote. All convicted prisoners serving a prison term are still prohibited from voting in Senedd Cymru and Welsh local elections.

EU citizens' voting rights

The voting rights of EU citizens living in the UK depend on where they live.

As already noted any foreign national, including EU citizens, can register to vote in devolved elections in Scotland and Wales.

In England and Northern Ireland, the eligibility is:

- Citizens of Denmark, Luxembourg, Poland, Portugal and Spain who are resident in the UK, have permission to enter or stay in the UK (or the Channel Islands or Isle of Man) can register to vote in local elections in England and Northern Ireland. The UK has bilateral treaties with these countries.
- Citizens of any other EU country who on or before 31 December 2020 were legally resident in the UK, had permission to enter or stay in the UK (or the Channel Islands or Isle of Man) and have remained resident without a break can register to vote in local elections in England and Northern Ireland

Cyprus and Malta are both EU and Commonwealth countries. Citizens of Cyprus and Malta are able to register for full voting rights as Commonwealth citizens as long as they fulfil the other eligibility requirements.

Summary of voting rights

Election	Voting age	Resident British citizens	Overseas British citizens	Resident Irish citizens	Resident qualifying Commonwealth citizens	Resident citizens of other countries	Convicted prisoners detained in prison
UK Parliament	18	Yes	Yes	Yes	Yes	No	No
England							
Police and crime commissioner	18	Yes	No	Yes	Yes	Eligible EU citizens	No
Elected mayor	18	Yes	No	Yes	Yes	Eligible EU citizens	No
Council and parish	18	Yes	No	Yes	Yes	Eligible EU citizens	No
Scotland							
Scottish Parliament	16	Yes	No	Yes	Yes	Any legally resident	Sentenced to 12 months or less
Council and community council	16	Yes	No	Yes	Yes	Any legally resident	Sentenced to 12 months or less
National park authority	16	Yes	No	Yes	Yes	Any legally resident	Sentenced to 12 months or less
Wales							
Senedd Cymru	16	Yes	No	Yes	Yes	Any legally resident	No
Council and community council	16	Yes	No	Yes	Yes	Any legally resident	No
Police and crime commissioner	16	Yes	No	Yes	Yes	Eligible EU citizens	No
Northern Ireland							
Northern Ireland Assembly	18	Yes	No	Yes	Yes	Eligible EU citizens	No
Council	18	Yes	No	Yes	Yes	Eligible EU citizens	No

2

What is the franchise?

The right to vote in public elections is called the elective franchise, or more commonly the franchise.

The UK, like all democratic countries, sets out rules on who has the right to register to vote. Most countries restrict voting in national elections to citizens of their own country. Some countries allow citizens of other countries to vote in local elections as long as they are resident.

To vote in the UK someone must be registered to vote and fulfil certain criteria.

In the UK the eligibility to register to vote is based on age, nationality, and residence. It can also be limited by imprisonment for a crime and conviction for certain electoral offences. This is called a 'legal incapacity to vote' which is explained in section 4.3 of this briefing. The limitations are set out in legislation, principally the [Representation of the People Act 1983](#), as amended.

In the UK there are three franchises:

- the parliamentary franchise – the right to vote in general elections for the UK Parliament
- the local government franchise – the right to vote in local government elections and some devolved elections
- a separate franchise for Welsh Parliament/Senedd Cymru.

The criteria for each are different.

2.1

Who decides the franchise?

The UK Parliament is responsible for setting the criteria for the UK parliamentary franchise. It is also responsible for setting the criteria for the local government franchise in England and Northern Ireland.

The devolved parliaments in Scotland and Wales are responsible for setting the local government franchise in those parts of the UK.

Devolved elections for the Northern Ireland Assembly and the Scottish Parliament use the local government franchise that applies in each country.

Welsh Parliament/Senedd Cymru elections have a separate franchise to the local government franchise, but the eligibility is the same as the local government franchise.

2.2 The electoral register

Although there are technically two franchises (three in Wales), electoral registers are maintained as far as possible as one register.

When registering to vote, the information provided will determine which elections someone is eligible to vote in. This will be recorded appropriately on electoral registers and will ensure only eligible voters may vote.

The UK's online registration portal is available at www.gov.uk/register-to-vote.

How are electoral registers maintained?

Electoral registers are maintained locally, there is no central UK-wide database.¹ The information provided when registering on the online portal is transmitted to local electoral registration officers.

Electoral registration officers, appointed by local authorities, will enter an applicant's details on their local electoral registers if all relevant information is confirmed. If some information cannot be confirmed, the registration officer may contact the applicant to verify it before adding someone to the electoral register.

It is an offence to provide false information when registering to vote.²

When are electoral registers updated with new voters?

New entries on the register are usually updated at the beginning of each month.³

In the run up to an election there is a deadline for new registrations. This is usually midnight at the end of the 12th working day before polling day. There are also interim updates to the register in advance of polling day to take account of registrations up to the deadline. Registrations after the deadline will be added to the register on the next monthly update after polling day.

¹ Representation of the People Act 1983, as amended, [Part I](#)

² As above, [Section 13D](#)

³ Lambeth Council website's [voting and elections pages](#) shows an example of registration deadlines for 2024

Differences in different parts of the UK

In England electoral registers are maintained at district council level (in areas with two-tier county and district councils) and in unitary authorities and metropolitan boroughs in single-tier areas.

In Scotland and Wales electoral registers are maintained at unitary authority level.

In Northern Ireland, the Chief Electoral Officer for Northern Ireland acts as the electoral registration officer for the whole of Northern Ireland.

3 The UK parliamentary franchise

3.1 Registration qualifications

To be eligible to register to vote for UK Parliament elections, a person must:

- be resident in the constituency (unless they are a special category elector)
- be of voting age – 18 years old – or reach voting age in the next year or so (known as attainers)
- be either a British, qualifying Commonwealth citizen or a citizen of the Republic of Ireland
- And not be subject to any legal incapacity to vote.

Attainers

Those who are on the electoral register but who are not yet 18 are called ‘attainers’.

An attainer is someone who turns 18 in the next year or so and can be included on the register in advance so they are ready to vote as soon as they turn 18. The official definition is someone who turns 18 twelve months following the 1 December after the date of their application to register (the relevant date).⁴

The register must include the date on which any attainers will be 18 years old and therefore eligible to vote.

For special category electors, residence in the constituency can be ‘notional’. This is explained in section 4.1 below.

3.2 Voting qualifications

To vote in a UK Parliament election a person must be:

⁴ Electoral Commission, Running electoral registration - England, [At what age can someone register to vote?](#)

- registered to vote, fulfilling the criteria listed above; and
- 18 years of age on the day of the poll.

A person who wants to vote in a polling station at a UK Parliament election is required to show photographic ID before being issued with a ballot paper. See the Library briefing on [Voter ID](#) for more information.

A person can only vote once in a UK Parliament election unless they are acting as a proxy for another voter. A proxy is someone who votes on behalf of someone else who cannot make it to the polling station.⁵

If a person is registered to vote in two places, they can only vote in one of them in a general election.

Attempting to vote twice in a general election yourself is an offence under Section 61 of the Representation of the People Act 1983. If found guilty, a person can be fined and be banned from registering to vote for three years (this is an example of a legal incapacity to vote).

⁵ Commons Library briefing paper CBP 7419, [Absent voting](#) provides details about postal and proxy voting

4 Electoral registration criteria

4.1 Residence

Residence has a particular meaning in electoral law. In most cases it will be straightforward and will be a person's normal residential address.

There is no minimum time period someone must be resident at an address to apply to register to vote but a person must be resident at the address.

Second homes

People with two homes may be able to register to vote at both addresses if they spend roughly equal amounts of time at both.⁶ The electoral registration officer at a local council will determine requests to register at second homes on a case-by-case basis. If someone only spend a few weeks a year at a second home on holiday, they are unlikely to satisfy the residence requirement.

Residence in electoral law is not equivalent to residence for other purposes such as income tax or council tax. Paying council tax on a second home does not automatically entitle someone to register to vote at that address.

Students and MPs are entitled to register at more than one address because their work or studies mean they do spend roughly equal amounts of time at each address and therefore satisfy the residence requirements.

Others who regularly live in one place for work for some of the time but who also live in another place for some of the time may also satisfy the residence requirements at both addresses.

If a person is registered in two places they can only vote once in a UK Parliament election. For local elections, they may vote in both council areas where they are registered unless they live in Scotland. In Scotland, it is an offence to vote in more than one local council area.

Special category voters with no UK address

There are special ways of fulfilling the residence criteria for voters without a UK address. For special category voters, residence is 'notional'.

⁶ Electoral Commission, [Registering to vote](#)

Overseas voters

UK citizens who live overseas can register at the last place they were registered to vote or were resident in the UK before they left. They can use the normal www.gov.uk/register-to-vote service.

Overseas voters can only register to vote in UK Parliament elections. They are not eligible for the local government franchise.

More information is available in the Commons Library briefing, [Overseas voters](#).

Armed forces voters

How armed forces electors register will depend on their circumstances. If they are posted in the UK they will usually register in the same way as other domestic voters. If posted overseas then they can register as a service voter or as an overseas voter.

Separate [forms for armed forces personnel](#) are available on the government's 'Register to vote' website. The Commons Library briefing on [Armed forces voting](#) has more detail.

Crown servants

People posted overseas while in the service of the UK Government (diplomats and overseas civil servants) or who work for the British Council can register to vote with or without a UK address. They can use a separate [online registration form](#) on the government's 'Register to vote' website.

No permanent address

People resident in the UK with no permanent address can register by making a 'declaration of local connection'. This is if they meet the other age and nationality requirements.

The types of voters that may use this are:

- homeless people
- people living in boats or other movable residences
- gypsy and travelling communities
- patients in a mental health hospital
- merchant seamen or
- a prisoner remanded in custody.

Voters wanting to make a declaration of local connection cannot register to vote online and must fill in a paper form and send it to their local council.

More information is available on the Electoral Commission webpage, [People with no fixed address](#).

4.2

Nationality

UK Parliament elections

Citizens of the UK, Ireland, and Commonwealth nations can register to vote for UK Parliament elections as long as they meet other residence and qualifying requirements.

Citizens of other nations cannot vote in UK Parliament elections regardless of how long they have been resident in the UK. This includes EU citizens.

Local elections

Citizens of the UK, Ireland, and Commonwealth nations can register to vote for all local elections as long as they meet other residence and qualifying requirements.

Some EU citizens retain local election voting rights in England and Northern Ireland even though the UK has now left the EU. Voting rights for EU citizens resident in the UK is examined in section 7 of this briefing.

Citizens of all other nations can register to vote for local elections in Scotland and Wales and elections to the Scottish Parliament and Senedd Cymru as long they meet the residence requirements. Section 5 explains local government franchises in more detail.

Dual nationality

Citizens with dual nationality can register to vote in the UK. For example, if someone has dual French and British nationality, they can register to vote as a British citizen.

Electoral registration officers will process an application to register based on the nationality that will give a person the highest level of voting rights.

Irish citizens

Irish citizens who are resident in the UK have full voting rights.

The voting rights of Irish nationals in the UK derive from the historical links between the two countries. They are not derived from Ireland's EU

membership nor from the UK's former EU membership. Section 6 has more detail on the voting rights of Irish and Commonwealth citizens.

Qualifying Commonwealth citizen

A qualifying Commonwealth citizen is someone who is resident in the UK and who has leave to remain in the UK or does not require leave to remain.

Electoral registration officers can check the immigration status of applicants.

Malta and Cyprus are both Commonwealth and EU countries. Citizens of both countries have voting rights to all elections in the UK, if they are resident and fulfil all other criteria, because of their Commonwealth status.

Can I use English, Welsh and Scottish?

Electoral law sets out the nationality requirements with reference to nationality and immigration law. The legal concept of nationality is that a person can only be a national of a sovereign nation state recognised in international law.

International law provides that the rules on whether a person possesses the nationality of a particular state are determined in accordance with domestic legislation. In the UK, this law is set out in the [British Nationality Act 1981](#) as amended. This Act does not provide for English, Scottish, or Welsh nationality. Nationality is a reserved matter and can only be altered by the UK Parliament.

Registration forms will therefore refer to British citizenship but writing English, Scottish, or Welsh will not invalidate an application. When the [online register to vote service](#) asks about an applicant's nationality it displays the following:⁷

What is your nationality?

Select all options that are relevant to you.

- British
including English, Scottish, Welsh or from Northern Ireland
- Irish
including from Northern Ireland
- Citizen of a different country

⁷ www.gov.uk/register-to-vote-service, accessed 26 September 2023

4.3

Legal incapacity to vote

A legal incapacity to vote is a restriction that prevents someone from registering to vote and from voting.

For UK Parliament elections, a legal incapacity to vote arises from being a Member of the House of Lords, being a prisoner serving a prison sentence or being unable to vote because of conviction for certain electoral crimes.

Members of the House of Lords

Peers who are members of the House of Lords cannot vote in UK Parliament elections.

Historically all peers could sit in the House of Lords and were prevented from voting in UK Parliament elections. The [House of Lords Act 1999](#) removed the entitlement of most of the hereditary Peers to sit and vote in the House of Lords. [Hereditary peers](#) who are not members of the House of Lords can register to vote in UK Parliament elections.

Bishops of the Church of England who sit in the House of Lords are called Lords Spiritual (non-bishops are known as Lords Temporal). As the Lords Spiritual are not '[Peers of the Realm](#)' they are able to vote in general elections. By tradition, the Lords Spiritual do not vote in UK Parliament general elections, although the decision is a matter for each individual.⁸

Prisoners

The legal incapacity to vote arises when someone is convicted and is sentenced to prison. For UK Parliament elections and local elections in England, Wales and Northern Ireland this applies to:

- convicted prisoners who have been found guilty of an offence (excluding contempt of court) and are detained in prison (or are unlawfully at large) and
- convicted offenders who are detained in a mental health hospital as a result of their conviction (or are unlawfully at large).⁹

Not all prisoners are subject to a legal incapacity to vote. The following prisoners can vote:

- prisoners on remand

⁸ See House of Lords Library briefing on the Private Member's Bill, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#)

⁹ Representation of the People Act 1983, as amended, [sections 3 and 3A](#)

- prisoners committed to prison for contempt of court
- prisoners committed to prison for default in paying fines
- prisoners released on temporary licence and
- prisoners released on home detention curfew.

For devolved and local election in Scotland the criteria are slightly different. In Scotland, prisoners serving a custodial sentence of 12 months or less are no longer subject to a legal incapacity to vote. Section 5.2 has more information on devolved and local elections in Scotland.

The Common Library briefing [Prisoners' voting rights: developments since May 2015](#) gives more information on the issues surrounding prisoner voting in the UK.

Electoral offences

People found guilty of certain electoral offences can be prevented from registering for three or five years depending on the type of electoral offence.¹⁰ These include:

- voting offences - such as personation (pretending to be someone else when you vote), voting twice in a general election, or voting when someone knows they are prohibited from voting because of a legal incapacity
- registration offences - such as providing false information when registering or applying for proxy and postal votes
- campaign offences – such as intimidation, false information on nomination papers, false declarations on campaign spending, bribing voters, breaching the secrecy of the vote and paying voters to display election posters.

¹⁰ Electoral offences are set out in various pieces of election legislation. The power to prevent people from registering to vote or stand for elected office on conviction is set out [in section 173](#) of the Representation of the People Act 1983, as amended

5

Local government franchises

The local government franchise is used for all types of local elections, including for councillors, elected mayors and police and crime commissioners. Local referendums also use the local government franchise.

Until the 1980s the local government franchise had the same qualification as the parliamentary franchise: only British, Irish and qualifying Commonwealth citizens resident in the UK could register to vote as long as they were not subject to a legal incapacity. They could only vote from the age of 18.

This has gradually changed over time as a result of devolution, the UK's former membership of the EU, and the extension of the parliamentary vote to overseas voters.

Devolved elections for the Northern Ireland Assembly and the Scottish Parliament use the local government franchise. Senedd Cymru elections technically have a separate franchise, but it is the same as the local government franchise in Wales.

In all areas of the UK, the same rules on residence apply as for the parliamentary franchise. For example, whether someone can register at a second home address, and fulfilling the notional residence for special category electors. The exception is overseas voters, who are ineligible to register for the local government franchise and cannot vote in any local or devolved elections.

Nationality, voting age and legal incapacity to vote rules now differ for local government elections depending on which part of the UK someone resides in.

5.1

England and Northern Ireland

The local government franchise in England remains the responsibility of UK ministers and legislation to change it must be passed by the UK Parliament.

Elections are an 'excepted' matter in Northern Ireland, which means they remain the responsibility of ministers in the UK Government.¹¹

The requirements in Northern Ireland and England are therefore the same.

¹¹ Northern Ireland Office, [Devolution settlement: Northern Ireland guidance](#)

The local government franchise is used for council elections and Assembly elections in Northern Ireland.

In England, the local government franchise is used for all levels of council elections (parish, district, county, unitary, metropolitan and London boroughs), directly elected mayors and police and crime commissioners. It is also used for local referendums, neighbourhood planning referendums and for parish polls.

Registration qualifications

Currently the requirements to be eligible to register for the local government franchise in England and Northern Ireland are that someone must:

- be resident in the local authority area
- be of voting age – 18 years old – or reach voting age in the next year or so
- be either a British, qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a qualifying citizen of the EU and
- and not be subject to any legal incapacity to vote.

Voting qualifications

To vote in a local election a person must:

- be registered to vote, fulfilling the criteria listed above and
- be 18 years of age on the day of the poll.

To vote in person at a polling station a voter is required to show photographic ID before being issued with a ballot paper. See Library briefing, [Voter ID](#), for more information.

A person cannot vote in the same council area more than once unless they are acting as a proxy for someone else. However, if they are registered in two separate local authorities because they have a second home and satisfy the residency qualification in both areas, they are allowed to vote in both elections.

Nationality

In local government elections in England and Northern Ireland, the same rules apply for Irish and qualifying Commonwealth citizens as in UK Parliament elections (see section 4.2 of this briefing for more information).

EU citizens

The voting rights of EU citizens for local election in England and Northern Ireland depends on which country the person is from and when they arrived in the UK. Section 7 gives more information on this.

Legal incapacity to vote

These provisions are the same in local elections as for UK Parliament elections, with the exception of members of the House of Lords, who can register to vote in local elections.

5.2

Scotland

The local government franchise in Scotland is used for local government and Scottish Parliament elections. It is also used for national park authority elections.

Elections to the Crofting Commission, the Scottish Government's statutory regulator of crofting, are subject to different rules and are not covered by the local government franchise.

Registration qualifications

To register for the local government franchise in Scotland a person must:

- be resident in the local authority area
- be of voting age - 16 years old - or reach voting age in the next year or so
- be either a British, qualifying Commonwealth citizen or a citizen of the Republic of Ireland
- be a qualifying foreign national, which includes EU citizens
- and not be subject to any legal incapacity to vote.

Members of the House of Lords can register to vote in local elections and elections to the Scottish Parliament.

People aged 14 or 15 are entitled to be included on the local government register as attainers. Information on those aged under 16 must not be

included on any version of the register published or supplied to others except in limited circumstances.¹²

Voting qualifications

To vote in a local or Scottish Parliament election a person must:

- be registered to vote, fulfilling the criteria listed above
- be 16 years of age on the day of the poll.

It is an offence to vote more than one constituency, either for a constituency or a regional list candidate, at a Scottish Parliament election unless you are acting as a proxy for someone else.¹³

It is no longer possible to vote in more than one council election on the same day in Scotland. A person can still register in more than one place if they fulfil the residence requirements, but Section 5 of the [Scottish Elections \(Reform\) Act 2020](#) now makes it an offence to vote in more than one council area on the same day. This includes by-elections.

It is also an offence to appoint a proxy to vote on your behalf at the election in some other electoral area in Scotland where there are multiple polls on the same day.

Voting age

The voting age was first reduced to 16 for the referendum on Scottish independence in 2014. This was initially only for the referendum. On 15 December 2014, David Cameron, then Prime Minister, confirmed that Scotland would be given the power to permanently reduce the voting age for local and Scottish Parliament elections.¹⁴

A Section 30 Order, under the Scotland Act 1998, gave the Scottish Parliament the power to extend the franchise to 16-year-olds and 17-year-olds. The Order transferring the power took effect on 20 March 2015.

On 18 June 2015, the [Scottish Elections \(Reduction of Voting Age\) Bill](#) was passed and received Royal Assent on 24 July 2015.¹⁵ It permanently reduced the voting age for both local government and Scottish Parliament elections. The first election in which 16-year-olds and 17-year-olds could vote was the Scottish Parliament election on 5 May 2016.

¹² Commons Library briefing SN 1020, [Supply and sale of the electoral register](#), has more information on who is entitled to see copies of the electoral register

¹³ [Scottish Parliament \(Elections etc\) Order 2015, as amended](#), paragraph 26

¹⁴ [David Cameron accepts Scottish Parliament votes at 16](#), BBC News, 15 December 2014

¹⁵ [Scottish Elections \(Reduction of Voting Age\) Act 2015](#)

Qualifying foreign national

The Scottish Parliament passed the [Scottish Elections \(Franchise and Representation\) Bill](#) on 20 February 2020 and it received Royal Assent on 1 April 2020.

The Act extended the local government franchise to any foreign national who is legally resident in Scotland and has leave to remain or does not require leave to remain.¹⁶

This includes those whose claim for asylum has been allowed and who have been granted refugee status and leave to remain in the UK. It would also include those who have been granted temporary protection or humanitarian protection or other forms of leave to remain in the UK, for example displaced citizens of Ukraine who have moved to the UK under the Ukraine Sponsorship Scheme.

Those without leave to remain in the UK are ineligible to register and to vote in elections. This includes individuals who are illegally present in the UK and/or subject to deportation or removal, and asylum seekers who have an undetermined claim for asylum.

Prisoners

The [Scottish Elections \(Franchise and Representation\) Act 2020](#) made changes to the legal incapacity requirements to allow some prisoners in Scotland to vote.

Prisoners serving a custodial sentence of 12 months or less are no longer subject to a legal incapacity to vote. From 2 April 2020 they can register to vote in local and Scottish Parliament elections but will only be permitted to vote by applying for a postal or proxy vote.¹⁷

Prisoners serving sentences of over twelve months will continue to be prohibited from registering and voting.

5.3

Wales

Wales has separate franchises for Senedd Cymru and local government elections. As in the rest of the UK, peers with a seat in the House of Lords can register to vote in Welsh local elections and elections to the Senedd Cymru.

¹⁶ This provision took effect on 3 August 2020, [Scottish Elections \(Franchise and Representation\) Act 2020 \(Commencement\) Regulations 2020](#)

¹⁷ Part 3 of the [Scottish Elections \(Franchise and Representation\) Act 2020](#), which came into force the day after Royal Assent

Welsh local government franchise

The [Local Government and Elections \(Wales\) Act](#) received Royal Assent on 20 January 2021. It extended eligibility to register for the local government franchise to be the same as for Senedd elections, which had been altered in 2020 (see below).

The provisions allowing for a qualifying foreign national to register to vote in local elections in Wales took effect for local government elections and local referendums taking place on or after 5 May 2022.

Plans to extend voting rights to some prisoners were dropped and remain the same as for Senedd Cymru elections.¹⁸

Registration qualifications

To register for the local government franchise in Wales a person must:

- be resident in the local authority area
- be of voting age – 16 years old – or reach voting age in the next year
- be either a British, qualifying Commonwealth citizen or a citizen of the Republic of Ireland
- be a qualifying foreign national, including EU citizens
- and not be subject to any legal incapacity to vote.

As in Scotland, 14-year-olds and 15-year-olds can be included on the local election register as attainers but cannot have their details published on any version of the register published or made available to others except in very specific circumstances.¹⁹

A qualifying foreign citizen is a citizen of another country who has permission to enter or stay in the UK, or who does not need such permission. This includes those granted temporary or humanitarian protection, such as displaced citizens of Ukraine.

Voting qualifications

To vote in a Welsh local election a person must be:

- registered to vote, fulfilling the criteria listed above and

¹⁸ Commons Library briefing CBP 7461, [Prisoners' voting rights](#)

¹⁹ Commons Library briefing SN 1020, [Supply and sale of the electoral register](#), has more information on who is entitled to see copies of the electoral register

- 16 years of age on the day of the poll.

A person cannot vote in the same council area more than once unless acting as a proxy for someone else.

If someone is registered in two separate local authorities because they have a second home and satisfy the residency qualification in both areas, they are allowed to vote in both elections.

Senedd Cymru franchise

The [Senedd and Elections \(Wales\) Act 2019](#) completed its stages in the Assembly on 27 November 2019.²⁰ The Act received Royal Assent on 15 January 2020.

Registration qualifications

To register for the Senedd Cymru elections a person must:

- be resident in Wales
- be of voting age – 16 years old – or reach voting age in the next year or so
- be either a British, qualifying Commonwealth citizen or a citizen of the Republic of Ireland
- be a qualifying foreign national, including EU nationals
- and not be subject to any legal incapacity to vote.

A qualifying foreign national is anyone legally resident in Wales and who has leave to remain (or does not require leave to remain).

Currently, the legal incapacity to vote in local elections is the same as for England and Northern Ireland. Prisoners serving a prison sentence of any length and detained in a prison or mental health hospital cannot register to vote in Senedd Cymru elections.

Voting qualifications

To vote in Senedd Cymru elections someone must:

- be registered to vote, fulfilling the criteria listed above

²⁰ This requirement, Section 111A of the Government of Wales Act 2006 was inserted by Section 9 the Wales Act 2017.

- be 16 years of age on the day of the poll.

It is an offence to vote in more than one constituency in a Senedd Cymru election unless someone is acting as a proxy for another voter.²¹

²¹ [National Assembly for Wales \(Representation of the People\) Order 2007, paragraph 31](#)

6

Why can Irish and Commonwealth citizens vote in UK elections?

Voting rights for Irish and Commonwealth citizens are a result of the historical links between the UK and Ireland and between the UK and the countries of the UK's former empire.

The right to vote in UK elections developed in the nineteenth and twentieth century. Historically 'aliens' had been excluded from voting by common law. It was not until the [Representation of the People Act 1918](#) that legislation first stated that only British citizens could register to vote and they had to be resident in the constituency.

The [British Nationality and Status of Aliens Act 1914](#) put into general statutory form that "any person born within His Majesty's dominions and allegiance...shall be deemed to be natural-born British subjects". It meant that citizens of the British Empire who were resident in the UK fulfilled the requirements of the Representation of the People Act 1918 and could register to vote.

In 1982, the Home Affairs Select Committee reviewed the voting rights of Commonwealth and Irish citizens as part of an investigation into the Representation of the People Acts. It recommended no change:

Though the historical background is different, the evidence put forward on behalf of Commonwealth and Irish citizens has many common elements. Both groups are arguing for the maintenance of their existing civic rights, rather than seeking new ones; and both feel threatened by the expression of opinions in certain quarters that these rights should be diminished or removed. In neither case did such a proposal find a voice in evidence to ourselves, and it would seem therefore that there is no widespread public demand for the removal of the voting rights of either Commonwealth or Irish citizens.²²

There have been no plans subsequently to restrict the voting rights of Commonwealth or Irish citizens legally resident in the UK.

²² Home Affairs Select Committee, Representation of the People Acts, HC 32, 1982-3, p13

6.1

Irish citizens

The right of citizens of the Republic of Ireland who are resident in the UK are eligible to register for, and vote in, elections in the UK is a result of the historical political ties between the two countries.

It stems from the fact that Ireland was at one time formally a part of the United Kingdom. Voting rights of Irish citizens resident in the UK are not affected by the UK's exit from the EU.

When the Representation of the People Act 1918 was passed Ireland was formally part of the UK but the political situation in Ireland was turbulent. The events of the Easter Rising of 1916 and the subsequent Irish War of Independence led to the establishment of the Irish Free State in 1922.

After the establishment of the Irish Free State, the citizenship status of Irish citizens within the Commonwealth became less clear. The position was described in a Home Office memorandum which was submitted to the Home Affairs Select Committee in November 1982:

When the south of Ireland was constituted as a free state within the Commonwealth in 1922 people from both the north and south of Ireland continued to enjoy the same status of British subject. But the policy of external association which the Irish government adopted in 1936 made its precise relationship with the Commonwealth uncertain, and Irish citizens were regarded as British subjects throughout the Commonwealth but not in the south of Ireland itself.²³

The [Representation of the People Act 1948](#) continued the requirement that only British subjects could register to vote. At the time the complex nature of the relationship between the United Kingdom and the Republic of Ireland gave rise to provisions that allowed Irish citizens to continue to register to vote as if they were British subjects.

The [British Nationality Act 1948](#) resolved the position. It made provision that any citizen of the Republic of Ireland, who would previously been a British subject because of Ireland's former position as part of the United Kingdom, would not to cease being considered a British subject.

This special status was further confirmed by the Ireland Act 1949, which confirmed the constitutional relationship between the Republic of Ireland and the United Kingdom.

The Act formally recognised that the Republic of Ireland ceased to be part of His Majesty's dominions, but Section 1 (2) confirmed that Northern Ireland

²³ Memorandum submitted by the Home Office in Representation of the People Acts. First Report of the Home Affairs Committee, Session 1982-83 (HC 32-II, 1982-83)

continued to form part of the United Kingdom and would not cease to form part of it “without the consent of the Parliament of Northern Ireland” (Northern Ireland had a devolved Parliament at this time).

Section 2 of the Act explicitly stated that “the Republic of Ireland is not a foreign country for the purposes of any law in force in any part of the United Kingdom or in any colony”. It reaffirmed the principle in the British Nationality Act 1948 that Irish citizens should not be considered aliens.

Clement Attlee, then Prime Minister, set out the rationale for this conclusion at second reading of the Ireland Act 1949:

As everybody knows, there are in Britain large numbers of people of Irish descent, some born in Eire and some born in this country, and there is a continual passage to and for of people who come over to work or to study or for pleasure. It would be an extremely difficult thing to decide in every case from day to day as to what the exact status was of a person with an Irish name, and if we had had to attempt to make all citizens of Eire aliens, it would have involved a great expenditure of men and money and a great extension of the control of aliens. We had in particular also to remember the difficulties caused because of the fact of the land frontier between Northern Ireland, which is part of the United Kingdom and the Commonwealth, and Eire.

We therefore came to the conclusion that we should reciprocally decide that the people of Eire and the people of Britain should not be foreign to one another... I do not pretend that the solution at which we arrived is completely logical – very few things in the relationship between these islands have been completely logical – but I believe they are practical and I believe that they are to our mutual benefit.²⁴

The [British Nationality Act 1981](#) s.50(1) continued to exclude Irish citizens from the definition of ‘alien’.

Irish citizens resident in the UK retained their voting rights and have continued to do so since.

There are reciprocal arrangements in Ireland. British citizens in Ireland can vote in general elections for the Dáil Éireann and in local elections. British citizens cannot vote in Irish Presidential elections nor in referendums.

Overseas voters

Some Irish citizens may register to vote as overseas voters if they meet conditions set out in the Representation of the People 1985 Act, as amended.

The Belfast Agreement of 1998, also known as the Good Friday Agreement, recognises “the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose.”²⁵

²⁴ [HC Deb 11 May 1949, c1855](#)

²⁵ [Belfast Agreement](#), April 1998

The 1985 Act was amended so an eligible Irish citizen who can register to vote as an overseas voter denotes:

a person who is an Irish citizen under Irish law, who was born in Northern Ireland and who also qualifies as a British citizen under UK law.²⁶

6.2 Commonwealth citizens

Qualifying Commonwealth citizens who are resident in the UK are eligible to register for, and vote in, elections in the UK.

A qualifying Commonwealth citizen is one who is resident in the UK and who has leave to remain in the UK or does not require leave to remain. Electoral registration officers can check the immigration status of applicants.

The voting rights of Commonwealth citizens stem from the historical ties between the UK and its former empire. This was because people living in the British Empire were regarded as British subjects.

In 1926, an Imperial Conference of the semi-independent Dominions of the Empire agreed that citizens were all equal members of a community within the British Empire. They all owed allegiance to the British king or queen, but the United Kingdom did not rule over them. This community was called the British Commonwealth of Nations.²⁷ By the Second World War many of the Dominions were independent. However, many did not seek to establish their own citizenship until after the Second World War.

In 1947, India gained independence and wanted to become a republic which did not owe allegiance to the British king or queen, but it also wanted to stay a member of the Commonwealth.

From 1949, republics and other countries could be part of the Commonwealth. This followed a meeting of Commonwealth Prime Ministers and the London Declaration. The modern Commonwealth of Nations was born.²⁸

In his book, *The Electoral System in Britain*, Robert Blackburn comments that the British Nationality and Status of Aliens Act 1914 was refined by the British Nationality Act 1948 “to replace the notion of common nationality with a system of reciprocal Commonwealth citizenship”.²⁹

It also provided a system where countries such as India and the African republics were still to be regarded, for nationality purposes and the right to vote, as ‘British subjects’ even though they no longer owed allegiance to the

²⁶ Northern Ireland (Miscellaneous Provisions) Act 2014, [Explanatory notes to section 15](#)

²⁷ The Commonwealth, [Our history](#)

²⁸ As above

²⁹ Robert Blackburn, *The Electoral System in Britain*, 1995, p81

Crown. They retained their position within the Commonwealth with the British monarch being recognised as Head of the Commonwealth.

The British Nationality Act 1981 updated the legislation around British citizenship, and the term ‘British subject’ now applies only in very specific circumstances.³⁰

The Representation of the People Act 1983 refers to the franchise as encompassing Commonwealth citizenship, using the term in the broad sense envisaged by the British Nationality Act 1948. The government gave assurances during the passage of the British Nationality Act 1981 that the new definition of British subject would not alter the possession of civic rights and privileges such as the right to vote.

³⁰ See the gov.uk pages on [Types of British nationality](#)

7

Voting rights of EU citizens

Eligibility for EU citizens to for the local government franchise depends which part of the UK they live. In Scotland and Wales EU citizenship it is no longer the determining factor as all resident foreigners can register as long as they meet the other eligibility requirements.

In England and Northern Ireland, the eligibility of EU citizens to vote in local elections and elections to the Northern Ireland Assembly now depends on when someone became resident in the UK and which EU country they are from.

7.1

Background

Before 1995, EU citizens living in the UK had no right to register to vote in local elections.

This was changed after EU rules were changed so citizens of member states of the EU were able to vote and stand as candidates in another EU member state if they were resident in that state.³¹

This was originally incorporated into domestic law by the [Local Government Elections \(Changes to the Franchise and Qualification of Members\) Regulations 1995](#) SI 1995/1948. It was subsequently restated by [Section 1](#) of the Representation of the People Act 2000, which amended the principal Act, the Representation of the People Act 1983.

This remained the case after the UK left the EU, as the principal domestic piece of law, the 1983 Act, was initially unaltered.

7.2

Elections Act 2022

The Elections Act 2022, passed in April 2022, made changes to the voting and candidacy rights of EU citizens resident in parts of the UK by amending the Representation of the People Act 1983.

³¹ Article 8b.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and the requirements of the directive of the Council of the European Communities [No. 94/80/EC](#)

The changes applied to local elections in England (including local referendums), local and devolved elections in Northern Ireland, and to police and crime commissioner elections, which cover England and Wales.

Local and devolved elections in Scotland and Wales would be unaffected because, as noted above, any foreign national legally resident in those countries can now register to vote in those elections.

The changes took effect after local elections in England in May 2024.

What are the changes?

EU citizens resident in the UK before 1 January 2020

This applies to EU citizens who were living in the UK before the end of the implementation or transition period of the Withdrawal Agreement. This was the period after the UK left the EU but when EU law still applied in the UK. It ended at 11pm on 31 December 2020.

These EU citizens will retain their voting and candidacy rights if they retain a lawful immigration status. The UK Government's announcement noted this "mirrors the stance taken on the EU Settlement Scheme" which protects the rights of EU citizens who were resident in the UK before the end of the implementation period.³²

The government statement noted that over 5 million grants under the Settlement Scheme had been made. This figure also includes non-EU citizens of Iceland, Liechtenstein, Norway and Switzerland who would not be able to register to vote in England or Northern Ireland regardless of their immigration status.³³

EU citizens resident and who arrived in the UK from 1 January 2020

EU citizens who are resident in England and Northern Ireland and arrived after 31 December 2020 will only get local election voting rights based on bilateral agreements where reciprocal voting rights have been agreed.

So far bilateral agreements have been agreed with Denmark, Luxembourg, Spain, Poland and Portugal.

The government's statement said: "The UK will continue to invite EU Member States which are interested in entering into such agreements the opportunity to negotiate treaties."³⁴

³² [HCWS99 \[Local elections\], 17 June 2021](#)

³³ As above

³⁴ As above

Why were changes made?

In June 2021, the government announced it was proposing to amend the legislation covering EU voting rights. It noted the UK's exit from the EU ended freedom of movement and "there should not be a continued, automatic right to vote and stand in local elections solely by virtue of being an EU citizen".³⁵

The UK Government had wanted to make reciprocal voting rights part of the negotiations for the UK's exit from the EU.³⁶ They were not included in the scope of the Withdrawal Agreement. Instead, the UK Government said it would negotiate reciprocal voting rights with individual EU countries. To date, agreements have been reached with Spain, Portugal, Luxembourg, Poland, and Denmark.³⁷

Review of registers

Electoral registration officers are required to conduct a one-off review of all already-registered EU citizens.

They will be obliged to identify those who remain eligible to vote under the new criteria and confirm their ongoing rights. Registration officers will also be obliged to identify those who are no longer eligible to vote and remove them from their local electoral register.

The review process will take up to three months to complete and must be completed by 31 January 2025.³⁸

The UK Government estimates around 2 million EU citizens will be verified and remain on the electoral register and around 160,000 EU citizens will be removed from the register. They will not be removed without first being contacted during the review process.³⁹

British citizens resident in EU countries

UK nationals can already vote in local elections in Belgium, Denmark, Estonia, Finland, Ireland, Lithuania, the Netherlands, Slovakia, Slovenia and Sweden. Domestic legislation in these countries already allows all non-EU citizens to register to vote in local elections (subject to varying residency requirements).

³⁵ [HCWS99 \[Local elections\], 17 June 2021](#)

³⁶ [HCWS1257 21 Jan 2019](#)

³⁷ The agreements announced are: Spain: [HCWS1257 21 Jan 2019](#), Portugal: [HCWS1614 12 June 2020](#), Luxembourg: [HCWS1633 18 June 2019](#), Poland: [HCWS260 3 June 2020](#), Denmark: [UK Government press release](#), 8 February 2024

³⁸ [Explanatory note \(PDF\)](#) to the draft regulations, [Representation of the People \(Franchise Amendment and Eligibility Review\) Regulations 2023](#) and the [Representation of the People \(Franchise Amendment and Eligibility Review\) \(Northern Ireland\) Regulations 2023](#)

³⁹ Lords Secondary Legislation Scrutiny Committee, Consideration of the Draft Representation of the People (Franchise Amendment and Eligibility Review) Regulations 2023, [Instruments of Interest](#), 20 July 2023, HL Paper 236

In the countries where the UK has signed a post-Brexit reciprocal voting rights agreement (Luxembourg, Spain, Poland and Portugal), British citizens resident in those countries will retain voting rights, subject to local residency and other registration requirements. Denmark also has a bilateral agreement but as noted above already allows foreign nationals to vote in local elections.

In EU countries where there is no domestic right for non-EU citizens to vote in local elections, and no reciprocal agreement with the UK, such as France and Germany, British citizens lost their local election voting rights when the UK left the EU at the end of the transition period.

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