



## BRIEFING PAPER

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# Who can vote in UK elections?

By Neil Johnston

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# 1. Summary

This briefing looks at who can vote in elections in the UK.

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.

In recent years the rules on who can vote in which election in the UK have diverged depending which bit of the UK you live in. [Section 2](#) sets out the meaning of the franchise and who is responsible for legislation for each franchise.

Across the whole of the UK, to vote in a UK Parliamentary election you must:

- be registered to vote in the constituency;
- be of voting age - 18 years old on polling day;
- 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 – prisoners serving a sentence for a conviction cannot vote in UK Parliamentary elections and neither can peers in the House of Lords.

[Section 3](#) gives more detail on the UK Parliamentary franchise.

[Section 4](#) gives some more information on the criteria, such as residence, nationality and legal incapacity to vote.

[Section 5](#) gives more detail on the local government franchises in the different parts of the UK.

For local elections in **England** and **Northern Ireland** the rules are the same as they are for UK Parliamentary elections with two main exceptions. Peers in the House of Lords and EU citizens resident in the UK may also vote in local elections as long as they meet the age and residency requirements.

In Scotland and Wales, you must be registered to vote in the area but there are now different rules on nationality and age, and the ban on some prisoners voting has been removed.

The main differences for local elections in **Scotland** are:

- Registered 16- and 17-year-olds can vote;
- All legally resident foreign nationals can also register to vote (not just EU nationals);

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- Convicted prisoners who are detained and serving a sentence of 12 months or less may now register to vote in local and Scottish Parliamentary elections.

In **Wales** the franchise has been changed for Welsh Parliament/Senedd Cymru elections to reduce the voting age to 16 and to allow legally resident foreign nationals to vote. These will apply to the Senedd Cymru elections due in 2021.

All convicted prisoners serving a prison term are still prohibited from voting in Senedd Cymru elections.

The local government franchise in Wales is currently the same as for England, but the Senedd Cymru is currently [considering a Bill](#) to lower the voting age for local elections to 16, to allow legally resident foreign nationals to vote and to allow some prisoners to vote.

These changes are expected to be in place in time for the local council elections in Wales due in May 2022.

These changes will not cover police and crime commissioner elections in Wales as these elections are reserved. Voting age will remain at 18 for PCC elections in Wales and only registered British, qualifying Commonwealth and Irish citizens will be able to vote.

The right of some non-British residents, namely Commonwealth and Irish citizens, to vote in UK elections is a result of historic ties with the UK. [Section 6](#) briefly outlines how these ties led to some non-British citizens gaining voting rights.

[Section 7](#) gives information on EU citizen voting rights.

[Section 8](#) briefly describes 'attainers'. These are those people not yet at voting age but who can register to vote because they will reach voting age in the near future.

The table below summarises the current situation for voting rights.

Who can vote in UK elections?								
Election type	Voting age	British citizens	British Overseas voters	Resident Irish citizens	Resident qualifying Commonwealth citizens	Citizens of other countries	Convicted prisoners detained in prison	
<b>UK Parliamentary elections</b>	18	Yes	Yes	Yes	Yes	No	No	
<b>England</b>								
Police and crime commissioner	18	Yes	No	Yes	Yes	Resident EU citizens	No	
Elected mayors	18	Yes	No	Yes	Yes	Resident EU citizens	No	
Council and parish council	18	Yes	No	Yes	Yes	Resident EU citizens	No	
<b>Scotland</b>								
Scottish Parliament	16	Yes	No	Yes	Yes	Anyone legally resident	Sentence of 12 months or less	
Council and community council	16	Yes	No	Yes	Yes	Anyone legally resident	Sentence of 12 months or less	
National parks authority	16	Yes	No	Yes	Yes	Anyone legally resident	Sentence of 12 months or less	
<b>Wales</b>								
Senedd Cymru	16	Yes	No	Yes	Yes	Anyone legally resident	No	
Council and community council	16	Yes	No	Yes	Yes	Resident EU citizens	No	
Police and crime commissioner	18	Yes	No	Yes	Yes	Resident EU citizens	No	
<b>Northern Ireland</b>								
Northern Ireland Assembly	18	Yes	No	Yes	Yes	Resident EU citizens	No	
Council	18	Yes	No	Yes	Yes	Resident 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.

In the UK, in order to vote, you must be registered to vote and fulfil certain criteria.

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.

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](#). 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; and
- a separate franchise for Welsh Parliament/Senedd Cymru franchise.

The criteria for each are different.

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 countries.

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.

### The electoral register

Although there are technically two franchises (three in Wales), electoral registers are maintained as far as possible as one register. When you register to vote, the information you provide will determine which elections you are eligible to vote in and this will be recorded accordingly.

The UK's online registration portal is available at [www.gov.uk/register-to-vote](http://www.gov.uk/register-to-vote)

Electoral registers are maintained locally, there is no central UK-wide database. The information provided to the online portal is transmitted to local electoral registration officers. Electoral registration officers, appointed by local authorities, will enter the details on their local

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

In the run up to an election there is a deadline for new registrations. This is usually 11 working-days before polling day. Registrations after the deadline will be added to the register on the next monthly update after polling day.

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.

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

## 3. The UK Parliamentary franchise

### Registration qualifications

To be eligible to register to vote for UK Parliamentary elections you must:

- be resident in the constituency (unless you are a special category elector);
- be of voting age – 18 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; and
- not be subject to any legal incapacity to vote.

For special category electors, residence in the constituency can be 'notional'. This is explained in [Section 4.1](#) below.

### Voting qualifications

To vote in a UK Parliamentary election:

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

Those who are on the electoral register but who are not yet 18 are called 'attainers'. [Section 7](#) gives more information on attainers.

You can only vote once in a UK Parliamentary election, unless you are acting as a proxy for another voter. If you are registered to vote in two places you can only vote in one of them in a UK Parliamentary 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 you are found guilty you can be fined and be banned from registering to vote for three years (this is an example of a legal incapacity to vote).

## 4. Some of the criteria explained

### 4.1 Residence

#### Second homes

Residence is not defined in electoral law.

In most cases it will be straightforward and will be your normal residential address.

If you own a second home you may be able to register to vote at both if you spend roughly equal amounts of time at both. However, if you only spend a few weeks a year at a second home on holiday, you are unlikely to satisfy the residence requirement.

Residence has a particular meaning in electoral law and 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 you 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.

The electoral registration officer at a local council will determine requests to register at second homes on a case by case basis.

If you are registered in two places you can only vote once in a UK Parliamentary election. For local elections, you may vote in both council areas where you are registered unless you 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 example overseas voters, armed forces personnel posted overseas and homeless people. For special category voters, residence is 'notional'.

**Overseas voters** must register at the last place they were registered to vote in the UK before they left. They can currently only stay on the electoral register for 15 years after they have left and can use the normal [www.gov.uk/register-to-vote](http://www.gov.uk/register-to-vote) service.

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

More detail is available in the Library briefing, [Overseas voters](#), including on the current Government's commitment to remove the 15-year limit on overseas voters' registration.

**Armed forces voters** can choose several ways to register depending on their circumstances and whether they are posted overseas or not.



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

**Crown servants** posted overseas (diplomats and overseas civil servants) 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.

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

The sorts of voters that may use this are:

- homeless people;
- people living in boats or other movable residences;
- gypsy and travelling communities;
- a patient 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

Citizens of countries other than the UK, Ireland and Commonwealth nations cannot register to vote for UK Parliamentary elections regardless of how long they have been resident in the UK. This includes EU citizens.

EU citizens currently retain local election voting rights. Even though the UK has now left the EU, there are no immediate plans to end local election voting rights for EU citizens resident in the UK. [Section 7](#) has more information.

Citizens with dual nationality may register. For example, if you have dual French and British nationality you may register as a British citizen. Electoral registration officers will process an application to register on the basis of the nationality that will give you the highest level of voting rights.

Legally resident foreign nationals of any country may now register to vote in some local and devolved elections in Scotland and Wales (see [Section 5](#)). They cannot vote in UK Parliamentary elections.

The voting rights of Irish and Commonwealth citizens are as a result of historic links between them and the UK. [Section 6](#) has more detail.

## 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 from a Commonwealth nation.

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.

## 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 historic links between the two countries. They are not derived from Ireland's EU membership nor from the UK's former EU membership.

## 4.3 Legal incapacity to vote

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

For UK Parliamentary elections a legal incapacity to vote arises from being a Member of the House of Lords, being a prisoner serving a prison sentence or committing certain electoral crimes .

### Members of the House of Lords

Peers who are members of the House of Lords cannot vote in UK Parliamentary 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 Parliamentary general elections, although the decision is a matter for each individual.<sup>1</sup>

### Prisoners

The legal incapacity to vote arises when someone is convicted and is sentenced to prison:

- 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).

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

- prisoners on remand;

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<sup>1</sup> See House of Lords Library briefing on the Private Member's Bill, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#)

- 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.

The 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.

- These include: voting offences - such as personation (pretending to be someone else when you vote); voting twice in a general election; or voting when you know you are prohibited from voting as a result of a legal incapacity;
- registration offences - such as providing false information when registering or applying for proxy and postal votes;
- and campaign offences – such as 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.

## 5. Local government franchises

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

Until the 1980s the local government franchise had the same qualification as the UK 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 extension of the Parliamentary vote to overseas voters, and the UK's former membership of the EU. The most obvious example is in Scotland, which was the first part of the UK to reduce the voting age for local and devolved elections to 16.

Devolved elections for the Northern Ireland Assembly and the Scottish Parliament use the local government franchise. Welsh Parliament/Senedd Cymru elections now have their own franchise.

In all areas of the UK, the same rules on residence apply as for the Parliamentary franchise. For example, whether you 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 elections.

Nationality, voting age and legal incapacity to vote rules now differ for local government elections depending which country of the UK you are resident 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.

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

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 you 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 or a citizen of the Republic of Ireland or a citizen of the EU; and
- not be subject to any legal incapacity to vote.

## Voting qualifications

In order to vote in a local election:

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

You cannot vote in the same council area more than once unless you are acting as a proxy for someone else.

However, if you are registered in two separate local authorities because you have a second home and satisfy the residency qualification in both areas, you 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 Parliamentary elections.

### EU citizens

EU citizens currently retain their rights to vote in local election in England and Northern Ireland as a result of the UK's former membership of the EU. [Section 6](#) gives more information on this.

## Legal incapacity to vote

These provisions are the same as for UK Parliamentary elections, with the exception of Members of the House of Lords, who may 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.

Crofting Commission elections are subject to different rules and are not covered by the local government franchise.

## Registration qualifications

In order to register for the local government franchise in Scotland you must:

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- 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 or a citizen of the EU;
- be a qualifying foreign national;<sup>2</sup> and
- not be subject to any legal incapacity to vote.

Peers with a seat in the House of Lords may register to vote in local elections or elections to the Scottish Parliament.

### Voting qualifications

In order to vote in a local or Scottish Parliament election:

- you must be registered to vote, fulfilling the criteria listed above;
- you must 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.<sup>3</sup>

You can no longer vote in more than one council election on the same day in Scotland. You can still register in more than one place if you 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.<sup>4</sup>

A Section 30 Order, under the *Scotland Act 1998*, gave the Scottish Parliament the power to extend the franchise to 16- 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.<sup>5</sup> It reduced the voting age for both local government and Scottish Parliament elections. The first election in which 16- and 17-year-olds could vote were the Scottish Parliament election on 5 May 2016.

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<sup>2</sup> This provision took effect on 3 August 2020, [Scottish Elections \(Franchise and Representation\) Act 2020 \(Commencement\) Regulations 2020](#)

<sup>3</sup> Scottish Parliament (Elections etc) Order 2015, paragraph 26

<sup>4</sup> [David Cameron accepts Scottish Parliament votes at 16](#), *BBC News*, 15 December 2014

<sup>5</sup> [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 became an [Act of the Scottish Parliament](#) 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).

This includes those whose claim for asylum has been allowed and 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

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 also 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 be subject to a legal incapacity to vote. From 2 April 2020 they may register to vote in local and Scottish Parliamentary elections but will only be permitted to vote by applying for a postal or proxy vote.<sup>6</sup>

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. The criteria for Senedd Cymru elections have been altered to lower the voting age and to allow resident foreign nationals to vote.

Legislation is before the Senedd Cymru to also change the requirements for the local government franchise.

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.

## Senedd Cymru franchise

The *Senedd and Elections (Wales) Act 2019* completed its stages in the Assembly on 27 November 2019.<sup>7</sup> The Act received Royal Assent on 15 January 2020.

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<sup>6</sup> Part 3 of the [Scottish Elections \(Franchise and Representation\) Act 2020](#), which came into force the day after Royal Assent

<sup>7</sup> This requirement, Section 111A of the Government of Wales Act 2006 was inserted by Section 9 the Wales Act 2017.

## Registration qualifications

In order to register for the Senedd Cymru elections you 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 or a citizen of the EU;
- be a qualifying foreign national; 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 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. It is expected that this will be changed to match the provisions proposed for the local government franchise in Wales, but not before the 2021 Senedd Cymru elections.

## Voting qualifications

In order to vote in Senedd Cymru elections:

- you must be registered to vote, fulfilling the criteria listed above;
- you must 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 you are acting as a proxy for another voter.<sup>8</sup>

## Welsh local government franchise

The Welsh Government has introduced a Bill in the Senedd Cymru to lower the voting age in Welsh local government elections to 16. The [\*Local Government and Elections \(Wales\) Bill\*](#) was introduced on 18 November 2019. Until it is passed and receives Royal Assent, the local government franchise in Wales remains the same as it does for England and Northern Ireland. The Bill will have its Stage 2 Committee stage in October 2020.

## Registration qualifications

Currently, in order to register for the local government franchise in Wales you 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 or a citizen of the Republic of Ireland or a citizen of the EU; and

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<sup>8</sup> National Assembly for Wales (Representation of the People) Order 2007, paragraph 31



- not be subject to any legal incapacity to vote.

This is currently the same as for England and Northern Ireland.

## **Voting qualifications**

In order to vote in a Welsh local election:

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

You cannot vote in the same council area more than once unless you are acting as a proxy for someone else.

## ***Local Government and Elections (Wales) Bill***

The Bill, if passed by the Senedd Cymru, will extend the local government franchise to:

- 16- and 17-year-olds;
- Foreign nationals legally resident in Wales; and
- Convicted criminals serving a prison sentence of less than four years.

The [progress of the Bill](#) can be followed on the Senedd Cymru's website.

## 6. Why can Irish and Commonwealth citizens vote in UK elections?

The historic links between the UK and Ireland and between the UK and the Commonwealth have meant that voting rights for Irish and Commonwealth citizens has been long established.

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 Empire 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* and 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.

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

### 6.1 Irish citizens

Citizens of the Republic of Ireland who are resident in the UK are eligible to register for, and vote in, elections in the UK.

This is a result of the historical political ties between the two countries and 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 and 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.<sup>9</sup>

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 by making provision for 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 was an Act to confirm 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 continued to form 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 fro 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

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<sup>9</sup> 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)

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. Indeed, I go further. The same action may be taken by other Commonwealth countries. 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. I am aware, of course, that hitherto there has been this division in international law – it has come down from the past – in which one has recognised people as either belonging to or foreign, but international law is made for men, not men for international law. We are moving into a time when various other relationships are being created. Therefore we thought this was the most practical solution.<sup>10</sup>

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 may vote in general elections for the Dáil Éireann and in local elections. British citizens may not vote in Irish Presidential elections.

## 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 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 from a Commonwealth nation.

The voting rights of Commonwealth citizens stem from the historic ties between the UK and its former Empire, and the status of people living in the Empire as British subjects.

In 1926 an Imperial Conference of the semi-independent Dominions of the Empire agreed that they 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.<sup>11</sup> 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 wanted to become a republic which didn't owe allegiance to the British king or queen, but it also wanted to stay a member of the Commonwealth. From 1949, following meeting of Commonwealth Prime Ministers and the London Declaration,

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<sup>10</sup> [HC Deb 11 May 1949, c1855](#)

<sup>11</sup> The Commonwealth, [Our history](#)

republics and other countries could be part of the Commonwealth. The modern Commonwealth of Nations was born.<sup>12</sup>

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'.

It also provided a system whereby countries such as India and the African republics were still to be regarded, for nationality purposes and the right to vote, as 'British subjects'. This was even though they no longer owed allegiance to the Crown, but 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.<sup>13</sup>

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.

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<sup>12</sup> Ibid

<sup>13</sup> See the gov.uk pages on [Types of British nationality](#)

## 7. Voting rights of EU citizens

EU citizens legally resident in the UK may register for the local government franchise and are able to vote in all elections that use the local government franchise.

Before 1995, EU citizens living in the UK had no right to register to vote in local elections. 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 made it possible for citizens of Member States of the EU to vote and stand as candidates in another EU Member state if they were resident in that state.

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*.

Until domestic law is changed EU citizens will retain their voting rights in local elections in England and local and devolved elections in Northern Ireland. This has been confirmed by the Government recently in advance of the May 2020 local elections that had been due to take place:

The rights of EU citizens to vote and stand in local elections will not immediately change on exit from the EU.<sup>14</sup>

This remains the case with local elections delayed from May 2020 to May 2021, as noted in a written statement from the Government:

The May local elections were postponed until 2021 due to Covid-19.

In that context, the UK Government can confirm that resident EU citizens will remain able to vote and stand in the rescheduled May 2021 local elections in England (including London Assembly elections) and the May 2021 Police and Crime Commissioner elections in England and Wales. Those elected to office will be able to serve their full term and this will also apply to those elected before 2021.

The franchise for local elections are devolved in Scotland and Wales.<sup>15</sup>

The UK Government had wanted to make reciprocal voting rights part of the negotiations for the UK's exit from the EU.<sup>16</sup> However, they did not form part of the negotiations and instead the UK Government is negotiating reciprocal voting rights with individual EU countries. To date, agreements have been reached with Spain, Portugal, Luxembourg and Poland.<sup>17</sup>

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<sup>14</sup> [WPO 1802 \[Elections: EU Nationals\]](#), answered 29 January 2020

<sup>15</sup> [WPO 66206 \[Elections: EU Nationals\]](#), answered 29 June 2020

<sup>16</sup> [HCWS1257 21 Jan](#)

<sup>17</sup> The agreements were announced in Written Statements: Spain: [HCWS1257 21 Jan 2019](#), Portugal: [HCWS1614 12 June 2020](#), Luxembourg: [HCWS1633 18 June 2019](#), and Poland: [HCWS260 3 June 2020](#)

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

## 8. Attainers

Attainers are those people on the electoral register who are not yet of voting age but can register to vote because they will attain voting age in the lifetime of the register.

This will be someone who reaches 18 in the 12 months from 1 December after they apply to register to vote for elections where the voting age is 18. This will be all 17-year-olds and some 16-year olds.

The electoral register will show the date on which they become eligible to vote.

Where the voting age is 16, attainers will be 15-year-olds and some 14-year-olds that reach 16 in the 12 months from 1 December after they apply.



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