

# Part B – Entitlement to register

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# 1 Introduction

1.1 The entitlement to be registered to vote is subject to meeting certain age, nationality and residence criteria and not having a legal incapacity to register. The franchise sets out who is entitled to vote at particular elections, which can be defined as those who meet the criteria for registration and have completed the registration process.

1.2 A person is entitled to be registered as a UK Parliamentary elector in Great Britain if:<sup>1</sup>

- they are resident in the constituency (subject to certain exceptions, which are explained below)
- they are not subject to any legal incapacity to vote (except for age)
- they are a qualifying Commonwealth citizen or a citizen of the Republic of Ireland
- they will attain voting age before the end of the period of 12 months beginning with the 1 December next following the relevant date

1.3 A person is entitled to be registered as a local government elector in Great Britain if:<sup>2</sup>

- they are resident in the local government area (subject to certain exceptions, which are explained below)
- they are not subject to any legal incapacity to vote (except for age)
- they are a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of a member state of the European Union
- they will attain voting age before the end of the period of 12 months beginning with the 1 December next following the relevant date

1.4 The franchise for elections to the National Assembly for Wales and the Scottish Parliament is the same as that for local government elections. All references to local government franchise or registers throughout this manual should therefore be read as references to the National Assembly for Wales and Scottish Parliamentary franchise and registers as appropriate.

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<sup>1</sup> Section 4(1), (4), (5) and (6), RPA 1983.

<sup>2</sup> Section 4(3), (4), (5) and (6), RPA 1983.

## 2 Entitlement to vote

2.1 Electoral Registration Officers are required to maintain a register of Parliamentary electors and a register of local government electors.<sup>3</sup> Additionally, they are required to maintain a register of those citizens of European Union member states who are entitled to vote at European Parliamentary elections in the UK<sup>4</sup> and of those peers living outside the UK who have made a declaration to vote at European Parliamentary elections.<sup>5</sup>

2.2 These registers must be combined as far as is practicable.<sup>6</sup> Given that the franchise for each of these registers is slightly different, how this combination will work in practice will need to be considered.

2.3 The full register must contain the names of persons appearing to the Electoral Registration Officer to be eligible to register in respect of UK Parliamentary and/or local government elections, their qualifying address and their elector number.<sup>7</sup>



Some special category electors must be entered on the register without their qualifying address or without their name and qualifying address. Further information on such electors can be found in Part F, 'Special category electors'.

2.4 The names of electors who have a restricted entitlement to vote must be prefixed in the register by certain letters.<sup>8</sup> These prefixes are as follows:

- E** indicates that the elector is an overseas elector who is also a peer and is only entitled to vote at European Parliamentary elections.
- F** indicates that the elector is an overseas elector who is only entitled to vote at UK and European Parliamentary elections.
- G** indicates that the elector is a citizen of a member state of the European Union who is only entitled to vote at local government elections.
- K** indicates that the elector is a citizen of a member state of the European Union who is entitled to vote at European Parliamentary and local government elections.
- L** indicates that the elector is a peer who is entitled to vote at European Parliamentary and local government elections.

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<sup>3</sup> Section 9, RPA 1983.

<sup>4</sup> Regulation 5(2), European (Franchise) Regulations 2001.

<sup>5</sup> Section 3(7), RPA 1985.

<sup>6</sup> Section 9(5), RPA 1983; Section 3(7), RPA 1985; Regulation 5(3), European (Franchise) Regulations 2001.

<sup>7</sup> Section 9(2), RPA 1983.

<sup>8</sup> Regulation 42, RPR 2001.



An additional marker (**U**) is provided in Scotland to indicate citizens of European Union member states who have specifically indicated their wish to register for European Parliamentary elections but not for local government elections.<sup>9</sup> The Electoral Commission recommends that Electoral Registration Officers should encourage such electors to also register as local government electors, although the U marker would need to be used where the elector insists on being registered as a European Parliamentary elector only.

2.5 A person is not entitled to vote unless their name is included on the register of electors to be used for an election, even if they would otherwise qualify to vote.<sup>10</sup>

2.6 Anyone who is registered as a Parliamentary elector is entitled to vote in UK Parliamentary elections<sup>11</sup> and European Parliamentary elections.<sup>12</sup> The franchise for European Parliamentary elections is, however, wider than that for UK Parliamentary elections, with peers entitled to vote at European but not UK Parliamentary elections, and citizens of member states of the European Union (other than those who are also Commonwealth and Republic of Ireland citizens) who have chosen to register in respect of European Parliamentary elections can vote in the former while having no entitlement to vote in the latter.<sup>13</sup>

2.7 Anyone who is registered as a local government elector is entitled to vote in local government elections,<sup>14</sup> Scottish Parliamentary elections if they are registered in Scotland,<sup>15</sup> National Assembly for Wales elections if they are registered in Wales<sup>16</sup> and Greater London Authority elections if they are registered in Greater London.<sup>17</sup>

2.8 The entitlement to vote in any referendum under PPERA will be set out in the enabling legislation for the referendum.

2.9 Although it is possible for certain people to be registered at more than one address, electors are not entitled to vote more than once at the same election:

- An elector may only vote once in any constituency at a UK Parliamentary election and, in the case of a UK Parliamentary general election, may only vote in one constituency.<sup>18</sup>

<sup>9</sup> Regulation 42(4), RPR (Scotland) 2001.

<sup>10</sup> Sections 1 and 2, RPA 1983. The only exception to this would be where the Electoral Registration Officer has omitted a name from the register as a result of a clerical error, in which case that person can be added to the register up to 9pm on polling day and can then be permitted to vote.

<sup>11</sup> Section 1, RPA 1983.

<sup>12</sup> Section 8(2), EPE Act 2002.

<sup>13</sup> Section 8, EPE Act 2002.

<sup>14</sup> Section 2, RPA 1983.

<sup>15</sup> Section 11, Scotland Act 1998.

<sup>16</sup> Section 12, GWA.

<sup>17</sup> Section 36(2A), RPA 1983.

<sup>18</sup> Section 1(2), RPA 1983.

- An elector may only vote once at a European Parliamentary election.<sup>19</sup>
- At Scottish Parliamentary, National Assembly for Wales and Greater London Authority elections, an elector is only entitled to cast one set of ballot papers as set out in the legislation.<sup>20</sup>
- At local government elections, an elector may not cast more than one ballot paper in the same ward, or cast a ballot paper in more than one ward of the same local authority.<sup>21</sup>

2.10 An elector who satisfies the residence and other registration conditions can, however, vote at elections to two different local authorities as these are two distinctly separate bodies of elected representatives.

2.11 Additionally, an elector may vote more than once at an election where they have been appointed as a proxy to vote on behalf of another elector, in which case they may cast their own vote and that of the elector for whom they have been appointed as proxy. A person can vote as proxy for up to two people of whom they are not a close relative at one election. A close relative in this case is a spouse, civil partner, parent, grandparent, brother, sister, child or grandchild. There is no limit to the number of close relatives for which a person can act as proxy. It is not an offence to be appointed as proxy for more than two people who are not close relatives: an offence is only committed where that person then proceeds to vote as proxy for more than two people who are not close relatives at the same election.



Further information on proxy voting can be found in Part G, 'Absent voting'.

<sup>19</sup> Regulation 3(2), European (Franchise) Regulations 2001; Section 9, EPE Act 2002.

<sup>20</sup> Section 11(2), Scotland Act 1998; Section 12(2), GWA; Section 4(1), Greater London Authority Act 1999.

<sup>21</sup> Section 2(2), RPA 1983.

### 3 Relevant date

3.1 Decisions on applications for registration are made based on whether or not an applicant meets the requirements for registration and whether or not they are disqualified from registration on the date the application is deemed to be made. This date is known as the relevant date. The relevant date will vary depending on the way in which the application is made.

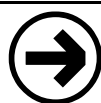
3.2 Applications made by way of responding to the annual canvass are made with reference to the relevant date of 15 October.<sup>22</sup> This is the case regardless of when the form has been completed: householders may return completed canvass forms before 15 October where they expect that those people listed on the form will be resident at the address on that date.

3.3 If there is an election during the canvass period, however, 15 October is not treated as being the date in respect of which the application was made.

3.4 On the publication of the notice of election for an election to be held during the period from 1 July to 1 December, any application on a canvass form that has already been returned to the Electoral Registration Officer by then is treated as having been made on the date of the publication of the notice of election.

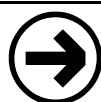
3.5 Any canvass form returned between the notice of election and the eleventh day before the date of the poll has a relevant date of the day it is received by the Electoral Registration Officer. These applications, once successfully determined, can then be used to add names to the notice of alteration published on the fifth day before the poll.

3.6 Any canvass form returned on or after the tenth day before the date of the poll cannot be used to add names to the register for use at that election and so should be determined based on the relevant date of 15 October and added to the revised register at the conclusion of the canvass.



Further information on the annual canvass can be found in Part C, 'The annual canvass'.

3.7 For rolling registration applications or declarations from special category electors received at any point throughout the year, including during the annual canvass period, the relevant date is the date on which the application or declaration was made, i.e. the date stated in the application or declaration.<sup>23</sup>



Further information on the rolling registration process and on special category electors can be found in Part D, 'Monthly alterations to the register' and Part F, 'Special category electors'.

<sup>22</sup> Section 10(2), RPA 1983.

<sup>23</sup> Section 4(6), RPA 1983.

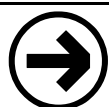
## 4 Qualifying address

4.1 For electoral registration purposes, the qualifying address is defined as the address in respect of which a person is entitled to be registered.<sup>24</sup> The register must include the qualifying addresses of those persons registered in it, subject to certain exceptions, including overseas and anonymous electors, which are discussed in Part F, 'Special category electors'.

### Residence

4.2 Residence in the constituency or electoral area is central to the entitlement to be registered to vote there.

4.3 A person must be resident at the address in respect of which they are seeking to be registered on the relevant date.<sup>25</sup> Being resident does not, however, require actual occupation and so the applicant does not need to be physically present at the address on the relevant date.



Certain categories of electors, including service voters, anonymous electors and overseas electors, have special provisions entitling them to register despite not meeting the residence requirement. On submission of the relevant declaration together with their application to register to vote, such electors will be deemed to meet the residence requirement. Further information on these types of elector and the process by which they can register can be found in Part F, 'Special category electors'.

4.4 When making a determination on the residence requirements, the Electoral Registration Officer must consider the circumstances of the applicant, including the purpose for which they are present at a particular address and/or the reasons they are absent.

4.5 A person is resident at an address if that is their permanent home address.



In the case of *Hipperson v. Newbury* (1985)<sup>26</sup> the court established that unlawful occupation of grounds or a dwelling does not disqualify a person from registering there if it is determined that this is their permanent residence. Consequently, any issue regarding tenancy, ownership or legal occupation of the property by the applicant must be disregarded in determining whether or not the residence requirement has been met.

4.6 If an elector is in temporary accommodation and has no other home elsewhere they may, depending on the circumstances, be taken to be resident at that address.<sup>27</sup> If, however, the person does have a permanent home

<sup>24</sup> Section 9(8), RPA 1983.

<sup>25</sup> Section 4, RPA 1983.

<sup>26</sup> *Hipperson and others v. Electoral Registration Officer for the District of Newbury and another* (1985) 2 All ER (CA).

<sup>27</sup> Section 5(2), RPA 1983.



elsewhere, they may be treated as being not resident at the temporary address.

## Person working away from home

4.7 If an applicant is not present at their address on the relevant date, the circumstances for this should be taken into consideration when determining their application. For example, if the applicant is not present at the address on the relevant date as a result of any office, service or employment, this will not affect the residence qualification as long as:<sup>28</sup>

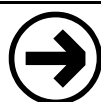
- they intend to resume actual residence within a period of six months from when they gave up residence, and the reason for their absence will not prevent them from doing so, or
- the property is a permanent place of residence for the applicant alone or the applicant and others and the only reason the applicant is not currently at the property is as a result of the duty they are undertaking

4.8 Consequently, a person who is away from an address as a result of the type of job they hold or because they are required to perform a duty away from their address can still be deemed to be resident there for registration purposes. As long as a person intends to return to an address as their primary residence on a permanent basis within six months, or the property remains the permanent residence of that person, whether alone or with others, that person is entitled to be or to remain registered in respect of that address.

## Students

4.9 Any student away from an address due to attendance on a course provided by an educational institution can be treated as though they were undertaking an office, service or employment and so their residence can be determined on the same basis as for persons working away from home as described above.<sup>29</sup>

4.10 Students often live at two different addresses, one during term time and one during the holidays. Students may be entitled to register in respect of both addresses where they are considered to have their home at both places.



More detailed consideration of those with more than one address can be found under 'Second homes', below.

## Person on holiday

4.11 Going away on holiday does not affect a person's residence qualification for electoral registration purposes as long as the person intends to return to their permanent address after their time away.

<sup>28</sup> Section 5(3), RPA 1983.

<sup>29</sup> Section 5(5), RPA 1983.

## Guests

4.12 A guest who is staying at a property does not become resident at that property if they have a permanent home elsewhere: in this case, the residence of the guest remains in their own permanent home. A guest who does not have a home elsewhere, however, may, depending on the circumstances, be regarded as being resident for electoral purposes and could be included on the electoral register in respect of that address.<sup>30</sup>

## Second homes

4.13 It is possible to be registered to vote at a second home, subject to certain conditions. Two leading English legal cases, *Fox v. Stirk* and *Ricketts v. Cambridge*,<sup>31</sup> primarily focused on student registration but can also be applied to those with second homes. These cases set out the following three principles:

- A person can have two residences.
- Temporary presence at an address does not make a person resident there.
- Temporary absence does not deprive a person of their residence.

4.14 Using these three principles, if a person is resident at two properties, depending on the purpose for which they are resident at each, it is possible that they will be eligible to be registered to vote in respect of both. In each case, a person would need to be able to show they are resident at the address, residency being as defined in Section 5 of the RPA 1983 and as outlined above.

4.15 In the Commission's view it is unlikely that owning a second property which is visited only for recreational purposes would meet the residency qualification. Owning and paying council tax on a property alone is not sufficient to satisfy the residence qualification: although this may give an indication of connection to an address, it is not evidence of residence. Each decision must be made on a case-by-case basis.

4.16 As the cases of *Fox v. Stirk* and *Ricketts v. Cambridge* took place in English courts, they are not directly applicable in Scotland, although they may be considered as persuasive by a Scottish court.

4.17 There are, however, two pertinent cases under Scottish law, which although not directly applicable in England may be considered as persuasive by an English court. In *Scott v. Phillips*,<sup>32</sup> where an appeal to be registered at a second home was refused, the decision distinguished between a substantive home and a home which was incidental to the substantive home. Consideration was given, in general terms, to where the 'main business of life'

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<sup>30</sup> Section 5(2), RPA 1983.

<sup>31</sup> *Fox v. Stirk* and *Ricketts v. Registration Officer for the City of Cambridge* [1970] 3 All ER 7.

<sup>32</sup> *Scott v. Phillips* 1974 SLT 32.

was conducted. The registration appeal court made clear, however, that each case needs to be considered on its own merits.

4.18 In the case of *Dumble v. Electoral Registration Officer for Borders*<sup>33</sup> it was held that a person who had two properties in two different registration areas which were necessary for that person's two separate careers in law and in politics was entitled to be registered in respect of both addresses as both were considered to be substantive residences.

4.19 It should be noted that all of the court decisions highlighted above were based on the legislation in force at the time and also took place prior to the introduction of the rolling registration process. It may take a new test case to examine the current legislation fully.

4.20 When considering registering electors in respect of a second address the Electoral Registration Officer must consider the circumstances surrounding the registration and the purpose for which the elector is present at the address, and should consider each case on its own merits.

## Merchant seamen

4.21 Merchant seamen who are not resident in the UK but who would be but for the nature of their employment are entitled to be treated as resident at either an address at which they would normally be resident but for their occupation, or at a hostel or club which provides accommodation for merchant seamen and at which they would commonly stay in the course of their occupation.<sup>34</sup>

## Travellers

4.22 By their nature, members of travelling communities will not normally have an address at which they could be considered resident, although some may settle for a period of time at sites designated by the local authority.

4.23 Electoral Registration Officers should consider the presence of any travelling people in their area and determine the best approach to take locally.

4.24 Other council officers will have responsibility for maintaining any sites for travelling people and also for ensuring that appropriate education is provided for the children of travellers. Such officers may be able to assist Electoral Registration Officers in assessing the situation of travellers in the local area and help to facilitate the registration of any travellers who are entitled to be registered.

## Narrow boats and other movable residences

4.25 Any person living on a boat, houseboat or similar residence which has a permanent mooring in Great Britain can be treated as being resident at that

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<sup>33</sup> *Dumble v. Electoral Registration Officer for Borders* 1980 SLT (Sh Ct) 60.

<sup>34</sup> Section 6, RPA 1983.

address. People living permanently in such residences should be registered as ordinary electors. Also, such addresses must be canvassed during the annual canvass period.

4.26 When a person lives on a boat or other similar residence that is not fixed to a particular place, that person cannot be treated as being resident at any particular address. Any such person will, however, be able to register by way of a declaration of local connection.<sup>35</sup>



Part F, 'Special category electors' describes the process for declarations of local connection.

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<sup>35</sup> Section 7B, RPA 1983.

## 5 Legal incapacity to vote

5.1 If a person is subject to a legal incapacity to vote, their name cannot be included on the register of electors.<sup>36</sup> People are subject to a legal incapacity to vote if they are disqualified from voting by law. This includes a person in one of the following categories:

- **Members of the House of Lords:** Members of the House of Lords are disqualified from voting at UK Parliamentary elections and so such persons are not entitled to be registered in the Parliamentary register of electors. They do, however, qualify to be registered in the local government register of electors as they are not disqualified from voting in local government elections simply by virtue of the fact that they are Members of the House of Lords. Further consideration of this category can be found in Section 7, 'Members of the House of Lords', below.
- **Detained convicted prisoners:**<sup>37</sup> A person who has been found guilty of an offence (excluding contempt of court) and is detained in prison (except for detention in consequence of non-compliance with a non-custodial sentence) is not legally capable of voting and is therefore not eligible to be included in the register of electors.<sup>38</sup> This disqualification applies whether the person is in prison or is unlawfully at large, and regardless of whether or not the person was properly included in the register prior to conviction.
- **Offenders detained in a mental hospital:** A person who is detained under an order or direction made under the provisions listed in Section 3A of the RPA 1983 or is unlawfully at large when they would otherwise be so detained is not legally capable of voting and therefore cannot be included in the register of electors.
- **Persons found guilty of certain corrupt or illegal practices:** A person found guilty of certain corrupt practices<sup>39</sup> is legally incapable of being registered to vote for five years from the date of the conviction.<sup>40</sup> A person found guilty of certain illegal practices<sup>41</sup> is legally incapable of being registered to vote for three years from the date of the conviction.<sup>42</sup> A successful appeal against such a conviction would remove the legal incapacity.

### Detained persons not serving a sentence

5.2 As a general rule a person who is detained at any place in legal custody cannot be treated as being resident in that place of custody for the purposes

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<sup>36</sup> Section 4, RPA 1983.

<sup>37</sup> In 2005, the European Court of Human Rights held that the disenfranchisement of prisoners in the UK was incompatible with the Human Rights Act. Although the UK Government has carried out a consultation on this issue, at the time of writing there has been no change to the law regarding this.

<sup>38</sup> Section 3, RPA 1983.

<sup>39</sup> That is, offences under Sections 60 and 62A, RPA 1983.

<sup>40</sup> Section 173(1), (2) and (3), RPA 1983.

<sup>41</sup> That is, offences under Section 61, RPA 1983.

<sup>42</sup> Section 173(1), (2) and (3), RPA 1983.

of registration as an ordinary elector.<sup>43</sup> This is subject to several exceptions, including for patients in mental hospitals who are not detained offenders or on remand.<sup>44</sup> The registration of such persons is discussed further below. Additionally, a person awaiting trial or sentence (on remand) may be resident at the place of detention if the length of the period of detention is likely to be sufficient for them to be regarded as being resident.<sup>45</sup> If not, and if they are not entitled to be registered at any other place such as their home address, such persons can register via a declaration of local connection.<sup>46</sup>



Part F, 'Special category electors' describes the process for declarations of local connection.

## People with learning difficulties or mental health conditions

5.3 A lack of mental capacity is not a legal incapacity to vote:<sup>47</sup> persons who meet the other registration qualifications are eligible for registration regardless of their mental capacity or lack thereof. Electoral Registration Officers should therefore ensure that persons with learning difficulties or mental health conditions are included in the register of electors.

### Learning difficulty

5.4 People with learning difficulties should receive information or other forms of support, if requested, to assist them with their application to register or to enable them to find out more about the electoral system.

### Mental health conditions

5.5 A mental health condition is not in itself a legal incapacity to vote and so is not, therefore, a bar to registration. The Electoral Registration Officer should assist, if requested, those who are making an application or who wish to find out more information about the electoral system.



Part I, 'Accessibility and participation' gives more information on possible ways to assist electors with the registration process and considers possible approaches to providing the necessary information and support.

## Voluntary patients

5.6 A voluntary patient (also known as an 'informal patient') is a patient in a mental hospital who is not detained there. If the length of their stay at the hospital is, or is likely to be, sufficient they may be regarded as resident at the

<sup>43</sup> Section 5(6), RPA 1983.

<sup>44</sup> Section 7, RPA 1983.

<sup>45</sup> Section 7A(2), RPA 1983.

<sup>46</sup> Section 7B, RPA 1983.

<sup>47</sup> Section 73 of the EAA abolished any common law rules regarding the incapacity of a person to vote because of their mental state.

hospital for the purposes of their entitlement to register.<sup>48</sup> Such patients may also register by means of their residence at some place other than the hospital. A patient who is not qualified by virtue of residence at any place other than the hospital may choose to register by means of a declaration of local connection in respect of the address where they would be living if they were not a patient or an address where they used to live before they were a patient.

## Patients detained in mental hospitals

5.7 For a person who is detained as a patient in a mental hospital or an establishment for the reception and treatment of persons in mental distress, the question of where they are resident will depend on the circumstances and on the length of time they are present at the hospital. They are, however, entitled to register, unless they are a detained offender.

5.8 If the length of their stay at the hospital is, or is likely to be, sufficient they may be regarded as resident at the hospital for the purposes of their entitlement to register.<sup>49</sup> Such patients may also register by means of their residence at some place other than the hospital. A patient who is not qualified by virtue of residence at any place other than the hospital may choose to register by means of a declaration of local connection in respect of the address where they would be living if they were not a patient or an address where they used to live before they were a patient.

## Hostels and homes

5.9 Hostels and homes of a residential nature should be treated, for electoral purposes, in the same way as any other qualifying addresses.

## Voting rights

5.10 While electors with any level or no level of mental capacity may be registered to vote, the decision as to whether and how to vote at an election must be made by the elector themselves and not by any other person on their behalf. Those who may be the carer of a person or who otherwise make decisions on behalf of a person may not make decisions on voting. The Commission considers that a person must have mental capacity to appoint or to continue to have a proxy, as that can be taken to be a decision on voting.

## Power of attorney

5.11 A lasting or enduring power of attorney is a process by which decisions on financial and certain other affairs can be made by others. No type of power of attorney has any power in connection with voting rights.<sup>50</sup> Any application or declaration which requires a signature from the applicant but which is signed by a person with a power of attorney must be rejected.

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<sup>48</sup> Section 7(2), RPA 1983.

<sup>49</sup> Section 7(2), RPA 1983.

<sup>50</sup> Section 29, Mental Capacity Act 2005.



An Electoral Registration Officer must not:

- sign an application for registration, any declaration or an application for an absent vote on behalf of someone else
- accept an absent voting application signed by someone on behalf of the applicant



## 6 Nationality

### General provisions

6.1 The nationality of an individual determines in respect of which, if any, elections in the UK a person is entitled to be registered to vote.

6.2 If an applicant is unsure regarding any aspect of their nationality, they should be advised to contact the Home Office. Details are available at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk).

### UK Parliamentary elections

6.3 All British, Republic of Ireland and qualifying Commonwealth citizens<sup>51</sup> meet the nationality requirement to vote in UK Parliamentary elections, and so can be included in the Parliamentary register of electors assuming that all of the other registration criteria are also met.

### European Parliamentary elections

6.4 Those who meet the nationality requirement to vote in UK Parliamentary elections also meet the nationality qualification for European Parliamentary elections. In addition, citizens of those member states of the EU who are not also British, Republic of Ireland or Commonwealth citizens are entitled to register and to vote at European Parliamentary elections as long as the other registration criteria are met and they make the necessary application and declaration to the Electoral Registration Officer, as described below.<sup>52</sup>

### Local government elections

6.5 All British, European Union and qualifying Commonwealth citizens meet the nationality requirement to vote in local government elections, and so are entitled to be included in the local government register of electors assuming that all of the other registration criteria are also met. The local government election franchise is also used for elections to the Scottish Parliament, the National Assembly for Wales and the Greater London Authority.

### Role and powers of the Electoral Registration Officer

6.6 If the Electoral Registration Officer is not satisfied as to any applicant or elector's nationality, they have the power to require the applicant or elector to provide specified documentary evidence confirming their nationality.<sup>53</sup> They also have the power to require any other person to provide information about any aspect in relation to a person's eligibility to be an elector.<sup>54</sup>

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<sup>51</sup> Section 4(6) of the RPA 1983 defines 'qualifying Commonwealth citizen'.

<sup>52</sup> Regulation 6(2)(d), European (Franchise) Regulations 2001.

<sup>53</sup> Regulation 24, RPR 2001.

<sup>54</sup> Regulation 23, RPR 2001.



The ability to ask for evidence or information is considered further in Part E, 'Improving completeness and accuracy'.

## Dual citizens

6.7 Some applicants may have more than one nationality. If an Electoral Registration Officer receives information from an applicant demonstrating that they have two or more nationalities, the application should be processed in accordance with the nationality that provides the higher level of franchise; for example, an application stating that the applicant is a dual German and British citizen should be registered as a British citizen, as this gives them the wider franchise.

6.8 Where a registration form is returned from a resident purporting to be ineligible to register (for example from an American citizen), their application must be rejected and a notice of rejection must be sent to the applicant. This notice should make it clear that the application failed the nationality qualification and should explain what steps should be taken should they also hold an eligible nationality. If an applicant does also hold a nationality that would entitle them to register, they can be registered in respect of that nationality, and the fact that one of their nationalities would not entitle them to register is irrelevant.

## British citizens

6.9 British citizens fulfil the nationality criteria for registration in respect of all elections in the UK.

6.10 Marriage to a British citizen does not automatically confer British citizenship on a foreign national.<sup>55</sup>

6.11 Birth in the UK does not automatically confer British citizenship either. Children born after 1 January 1983 are only British citizens if either their father or their mother is also British or, if both parents are foreign nationals, they are legally settled in the UK.<sup>56</sup>

## Citizenship ceremonies

6.12 Citizenship ceremonies are the final stage of attaining British citizenship. These events are good opportunities to ensure that new residents are correctly registered. Some residents may already be registered due to their previous nationality but may need to apply to register for UK Parliamentary elections where they are registered for local government elections only. Citizenship is conferred at the ceremony itself so an invitation to a citizenship ceremony is not in itself proof of citizenship.

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<sup>55</sup> British Nationality Act 1948.

<sup>56</sup> Section 1, British Nationality Act 1981.

6.13 Electoral Registration Officers may wish to liaise with those with responsibility for the ceremonies in order to get rolling registration forms included in the welcome pack produced for the new citizens, and may also seek to find out the addresses of the new British citizens in order to ensure that these registration forms are completed and returned. Additionally, Electoral Registration Officers may wish to enquire to see if reference to the importance of registering to vote and participating in the democratic process could be made in the speech delivered at the ceremony.

## Commonwealth citizens

### Entitlement to vote

6.14 Qualifying Commonwealth citizens are entitled to register as Parliamentary and as local government electors provided that they also fulfil the age and residence requirements for such registration and are not subject to any other legal incapacity.<sup>57</sup>

### Meaning of ‘qualifying Commonwealth citizen’

6.15 A person who is a Commonwealth citizen is a qualifying Commonwealth citizen for registration purposes if they do not require leave to enter or remain in the UK or they do require leave to enter or remain in the UK but have been granted such leave or are treated as having been granted such leave.<sup>58</sup>

6.16 Any type of leave to enter or remain is acceptable, whether indefinite, time limited or conditional.

6.17 Qualifying citizens of the following countries meet the nationality criteria to register in respect of all elections.

### List of Commonwealth countries

Antigua and Barbuda	Jamaica	St Vincent and the
Australia	Kenya	Grenadines
The Bahamas	Kiribati	Samoa
Bangladesh	Lesotho	Seychelles
Barbados	Malawi	Sierra Leone
Belize	Malaysia	Singapore
Botswana	Maldives	Solomon Islands
Brunei Darussalam	Malta*	South Africa
Cameroon	Mauritius	Sri Lanka
Canada	Mozambique	Swaziland
Cyprus*	Namibia	Tonga
Dominica	Nauru	Trinidad and Tobago
Fiji Islands	New Zealand	Tuvalu
The Gambia	Nigeria	Uganda
Ghana	Pakistan	United Kingdom

<sup>57</sup> Section 4(1)(c) and (3)(c), RPA 1983.

<sup>58</sup> Section 4(6), RPA 1983.

Grenada	Papua New Guinea	United Republic of Tanzania
Guyana	Rwanda	Vanuatu
India	St Kitts and Nevis	Zambia
	St Lucia	Zimbabwe

\*Although also EU member states, citizens of Cyprus and Malta are eligible to be registered to vote in respect of all elections held in the UK.

Note: Citizens of the above countries retain their voting rights even if their country is suspended or expelled from the Commonwealth organisation.

## Persons claiming asylum

6.18 The fact that an applicant or elector has claimed asylum has no connection to their right to be registered as an elector and therefore the Electoral Registration Officer has no right to ask for any evidence or information about asylum. The Electoral Registration Officer can only make enquiries as to nationality and whether a person has any type of leave to enter or remain in the UK.

## British Overseas Territories

### List of British Overseas Territories

Anguilla	Montserrat
Bermuda	Pitcairn Island
British Antarctic Territory	St Helena
British Indian Ocean Territory	St Helena dependencies
British Virgin Islands	(Ascension Island and Tristan da Cunha)
Cayman Islands	South Georgia and the South Sandwich Islands
Falkland Islands	Sovereign base areas on Cyprus
Gibraltar	Turks and Caicos Islands

6.19 British Nationals (Overseas) citizens, British Overseas citizens and British Dependent Territories citizens are all Commonwealth citizens and are entitled to register as electors in respect of all elections, provided that they also fulfil the age and residence requirements for such registration and are not subject to any other legal incapacity.<sup>59</sup> Such citizens are not, however, eligible to register as overseas electors.

6.20 Citizens of Gibraltar who are resident in Gibraltar are entitled to register to vote at European Parliamentary elections in the South West region. This is administered by the European Electoral Registration Officer for Gibraltar.<sup>60</sup>

<sup>59</sup> British Nationality Act 1981.

<sup>60</sup> Sections 14 to 17, European Parliament (Representation) Act 2003.

## British Crown Dependencies

6.21 The British Crown Dependencies consist of the Isle of Man and the Channel Islands including Jersey, Guernsey, Sark, Alderney, Herm and the other inhabited Channel Islands.

6.22 Citizens of the British Crown Dependencies are considered to be Commonwealth citizens for the purposes of electoral registration but they may only register to vote in UK elections when they are resident in the UK. As with citizens of British Overseas Territories, citizens of British Crown Dependencies are not entitled to register as overseas electors.

## Hong Kong

6.23 Following its transfer to Chinese sovereignty on 1 July 1997, Hong Kong was deleted from the list of British Overseas Territories.<sup>61</sup> As a result, former residents of Hong Kong are not qualifying Commonwealth citizens by virtue of their residency in Hong Kong as Hong Kong Chinese is no longer a nationality.

6.24 If an elector declares their nationality to be Hong Kong Chinese then the Electoral Registration Officer should exercise their powers to require evidence of the elector's actual nationality and confirm the type of passport that they hold.<sup>62</sup>

6.25 Any previous resident of Hong Kong who holds a British Dependent Territories, British Nationals (Overseas) or British Overseas passport meets the nationality criteria for all elections in the UK.

6.26 Any previous resident of Hong Kong who only has a Chinese Special Administrative Region passport is Chinese and may not register.

## European Union citizens

### Member states of the European Union

Austria	Germany	Poland
Belgium	Greece	Portugal
Bulgaria	Hungary	Republic of Ireland*
Cyprus*	Italy	Romania
Czech Republic	Latvia	Slovakia
Denmark	Lithuania	Slovenia
Estonia	Luxembourg	Spain
Finland	Malta*	Sweden
France	The Netherlands	United Kingdom

\*Citizens of the UK, the Republic of Ireland, Cyprus and Malta are eligible to be registered to vote in respect of all elections in the UK.

<sup>61</sup> Schedule 6, British Nationality Act 1981.

<sup>62</sup> Regulation 24, RPR 2001.

## Cyprus, Malta and the Republic of Ireland

6.27 Citizens of the Republic of Ireland and Commonwealth citizens, including those from Malta and Cyprus, have the same voting rights as British citizens. Membership of the EU has no effect on the electoral registration status of these citizens and they are able to register to vote in respect of all UK elections, assuming all of the other relevant registration criteria are met. Citizens of the Republic of Ireland, Cyprus and Malta **must not** have the 'G' or 'K' marker placed next to their names.

6.28 For registration purposes, the whole of Cyprus is considered to be a Commonwealth country and the Electoral Registration Officer should not be concerned with the political situation regarding the division of the island. If there is any doubt as to whether a person from Cyprus should be registered, they should be asked for confirmation of the type of passport that they hold. Provided that the person has a passport from either the Republic of Cyprus or the Republic of Northern Cyprus, they are entitled to be included in the register of electors as Commonwealth citizens. Anyone claiming to be from Cyprus but with a Turkish passport, however, is not entitled to register.

### Local government electors

6.29 Electoral Registration Officers have a duty to register all eligible citizens of EU member states resident in Great Britain as local government electors. The canvass form and rolling registration forms must contain a column for the nationality of all applicants to be provided, which will enable the identification of citizens of EU member states.

6.30 If an Electoral Registration Officer has any doubts about an applicant or an elector's nationality, they may require that person to produce evidence to show that they are a citizen of an EU member state.<sup>63</sup> If any fee is payable in connection with the production of such evidence required by the Electoral Registration Officer, that fee shall be paid by the Electoral Registration Officer and treated as part of their registration expenses paid by the local authority.<sup>64</sup>

6.31 Citizens of EU member states registered only as local government electors have their names included in the register prefixed with the letter 'G'.

### European Parliamentary electors

6.32 Registration as a European Parliamentary elector is entirely voluntary for citizens of EU member states (excluding the UK, the Republic of Ireland, Cyprus and Malta). Electoral Registration Officers have no statutory duty to seek out such citizens for this purpose. EU citizens may, however, apply individually for registration as European Parliamentary electors each year.

6.33 The annual canvass form and rolling registration forms can only be used to register a citizen of an EU member state as a local government elector.

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<sup>63</sup> Regulation 24(1) and (2), RPR 2001.

<sup>64</sup> Regulation 24(3), RPR 2001.

Citizens of EU member states wishing to register as European Parliamentary electors must complete a separate application accompanied by a declaration, which must state that they will vote only in the UK at any European Parliamentary election during the 12-month period of the declaration.<sup>65</sup> EU citizens may only vote once and only in one member state at a European Parliamentary election, and to do otherwise would be committing an offence.<sup>66</sup>

6.34 The Electoral Registration Officer should issue these applications and declarations to each local government elector who has indicated on the annual canvass form, or in their rolling registration application to be registered as an elector, that they are a citizen of an EU member state.<sup>67</sup> As European Parliamentary elections are scheduled elections, the process of issuing these can be done during or immediately after the annual canvass preceding the election. Any returned applications and declarations should be dealt with in the same way as any other declaration and must meet the registration deadlines.

6.35 Electors who return a completed declaration will have their names included in the register of electors prefixed with the letter 'K' instead of the letter 'G'. This notation must not be made for citizens of the UK, the Republic of Ireland, Malta or Cyprus, as they are eligible to vote in respect of all elections held in the UK, and are not required to return a separate application and declaration in order to be registered in respect of European Parliamentary elections.

6.36 If the declaration is returned and determined in time, the change from 'G' to 'K' should be reflected in the next update to the register. This will either be in the publication of the next revised register, monthly notice of alteration or election notice of alteration. This change in marking signifies that the person in question has been added to the register of European Parliamentary electors.

6.37 A person's application to register to vote as an elector at a European Parliamentary election in the UK remains effective for a period of 12 months from the date on which the entry in the register takes effect, or until:<sup>68</sup>

- the citizen applies for their name to be removed from the register of electors, or
- another application is made by the citizen in respect of a different qualifying address, or
- the application is cancelled by the elector, which can be done at any time, or
- notification is received from the Secretary of State that information has been received from a member state indicating that the citizen has lost their right to vote

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<sup>65</sup> Regulation 6, European (Franchise) Regulations 2001.

<sup>66</sup> Section 9, EPE Act 2002.

<sup>67</sup> Excluding citizens of the UK, the Republic of Ireland, Malta and Cyprus.

<sup>68</sup> Regulation 10, European (Franchise) Regulations 2001.

## Information to the Secretary of State

6.38 EU Directive 93/109 is designed to assist with preventing plural voting in European Parliamentary elections. Electoral Registration Officers are required to send information on citizens of EU member states registered in their areas to other EU countries, and in turn should receive information from other EU countries.

6.39 Further information and contact details relevant to this exercise will be supplied to Electoral Registration Officers by the relevant government department in advance of a European Parliamentary election.

6.40 The numbers of citizens of EU member states registering as European Parliamentary electors and as local government electors must be included in the annual statistical return made on form RPF29.



## 7 Members of the House of Lords

7.1 Peers who are Members of the House of Lords are disqualified from voting at UK Parliamentary elections. Nevertheless, they may vote at European Parliamentary and local government elections, and at both national and local referendums.

7.2 Following the enactment of the House of Lords Act 1999, the only peers who are disqualified from voting at UK Parliamentary elections are life peers and those 92 hereditary peers who continue to sit in the House of Lords.

### Identifying Members of the House of Lords

7.3 The Electoral Registration Officer may find it difficult to identify those who are peers and who are Members of the House of Lords. This information, including a full list of Members of the House of Lords, can be found on the House of Lords website at [www.parliament.uk/about\\_lords/about\\_lords.cfm](http://www.parliament.uk/about_lords/about_lords.cfm). Alternatively, the Information Office at the House of Lords will be able to assist with enquiries, and can be contacted by telephoning 020 7219 3107.

### Registration

7.4 The names of Members of the House of Lords should be included in the register of electors with the letter 'L' prefixed against their names to indicate that they are not eligible to vote at UK Parliamentary elections.

7.5 Where information has been received that a person who is currently registered as an ordinary elector has become a Member of the House of Lords, the Electoral Registration Officer should, where satisfied after the making of enquiries, amend the entry in the register through the monthly alteration procedure to denote the change in that elector's qualification.

7.6 Members of the House of Lords who register as overseas electors must have the letter 'E' prefixed against their names in the register of electors rather than the letter 'L', to indicate that they are eligible to vote at European Parliamentary elections only.

## 8 Age

### Attainers

8.1 An elector who is not yet 18 years of age must be shown on the register with the date on which they will attain the age of 18. Those electors appearing on the register in such a case are called attainers as they are about to attain voting age.

8.2 The details of all known attainers must be included on any canvass form sent to a household. The date of birth for all 16- and 17-year-olds must be provided on the annual canvass form. Although not all 16-year-olds will be eligible to be registered, the provision of this information will allow Electoral Registration Officers to determine who is eligible to register and who is not.

8.3 Any person who was born on 29 February in a leap year will attain the age of 18 on 1 March in a non-leap year.

8.4 The minimum voting age is 18 years and anyone who will reach the age of 18 on or before the day of a poll is entitled to vote at that election if they are included on the relevant register of electors and not subject to any legal incapacity to vote. A person can be included on the register before their eighteenth birthday so that they may vote as soon as they attain the age of 18 years. Applications can be accepted if the applicant will be 18 years of age before the end of a 12-month period starting from the next 1 December after the application is made.

8.5 For example, if an application for registration is made in the summer by a person who is not yet 18, the applicant meets the age qualification if they will be 18 within a 12-month period starting from 1 December of that year. A person applying in December meets the qualification if they will be 18 within 12 months of the 1 December of the next year – almost two years away.

### Jury service and the over 70s

8.6 In England and Wales, all electors over the age of 70 years must indicate this fact on the annual canvass form or rolling registration form by which they apply to be registered. The Electoral Registration Officer must supply a full copy of the register of electors, including an indication of those electors who are over 70 and therefore not eligible for jury service, to an officer designated to summon juries.<sup>69</sup> The relevant contact details for this are contained in Part H, 'Access and supply'.



There is no requirement for Scottish Electoral Registration Officers to ask electors whether they are over 70. Although the Scottish Courts Service is entitled to purchase a copy of the full register of electors under Regulation 112 of the RPR (Scotland) 2001, electors over 70 are not indicated.

<sup>69</sup> Section 3, Juries Act 1974.

## Providing jury lists to others

8.7 No organisation or body which does not summon juries may be given the register which includes a mark to show those electors who are over 70 years of age. Parties, candidates and other recipients of electoral registers must not be supplied with the jury list.