

Scottish Elections (Representation and Reform) Bill

About JustRight Scotland

JustRight Scotland is a registered charity (SC047818) established by an experienced group of human rights lawyers. We use the law to defend and extend people's rights, working collaboratively with non-lawyers across Scotland towards the shared aims of increasing access to justice and reducing inequality.

We provide legal advice and representation on human rights and equalities issues across a range of legal areas including: women's legal justice, trafficking and labour exploitation, EU citizen rights, migration and citizenship, disability and trans legal justice.

Whilst our work is specific to Scotland, our work covers both devolved and reserved policy areas, and as such we endeavour to respond to policy consultations across both Scotland and UK, where appropriate.

As public lawyers for people who face systemic inequalities, discrimination and disadvantage, we use the provisions of the Human Rights Act 1998 (HRA) in our work, daily. In addition to providing direct legal advice to clients, we also run outreach legal surgeries and helplines, deliver rights information, training and legal education, and contribute to research, policy and influencing work.

Our Response

Our response to the Standards, Procedures, and Public Appointments Committee's consultation on the Scottish Elections (Representation and Reform) Bill.

JustRight Scotland

JustRight Scotland is a Scottish Charitable Incorporated Organisation (SC047818) which provides legal services through its limited liability partnership, JustRight Scotland LLP which trades as JustRight Scotland (SO305962). This firm has been authorised to act as solicitors by the Law Society of Scotland (Registered No 53703).

Room 1, 1st Floor, Libertas
House, 39 St Vincent Place,
Glasgow, G1 2ER

W ▶ www.justrightscotland.org.uk
T ▶ @justrightscot

Question 1

**Allowing foreign nationals with limited leave to remain to stand for election.
Please give us your thoughts on this aspect of the Bill.**

JustRight Scotland (JRS) welcomes the proposal to allow foreign nationals with limited leave to remain (LLR) to stand for election at Scottish local government elections and Scottish Parliament elections, for the same reason we supported extending the right to residents with indefinite leave to remain (ILR)¹.

Residents in Scotland with LLR are directly impacted by decisions made by Scottish local and national politicians, and we believe it is right for democratic processes to be extended to include them. We believe the current requirement for prospective migrant candidates to have ILR is unnecessary and overly restrictive. By only granting candidacy rights to those with ILR, the current electoral system excludes some Scottish residents who may have been in the country for a significant period of time, but not yet acquired ILR.

Immigration and nationality law is complex, and there are many different routes to citizenship in different immigration categories. For example, for refugees, people are typically granted limited leave to remain (LLR) for periods ranging from 1.5 years to 3 years to 5 years. Individuals will often have to renew this LLR for up to 10 years, at which point they may achieve the right to stay permanently (ILR). Effectively, people may have lived here lawfully for 10 years or longer², and have every intention of settling here, but not have ILR, thus excluding them from standing as candidates in Scottish elections.

Having ILR as a threshold for candidacy sets too high a bar and we believe the proposals contained in the Bill can redress this, by creating an approach to candidacy rights that is consistent with the eligibility to vote.

We reaffirm the principle that both candidacy and franchise rights should be based on an individual's relationship to a community, and not dependent on the arbitrary and ever-changing requirements imposed by an increasingly hostile immigration system. This is especially relevant in the current hostile environment which creates more rigid and narrow pathways to acquiring ILR.

While we welcome the proposal to extend candidacy rights to individuals with LLR, we are disappointed the same rights are not extended to those seeking asylum.

¹ <https://www.justrightscotland.org.uk/wp-content/uploads/2021/03/2019.11.22-Briefing-SEFR-amendments-voting-and-candidacy-FINAL.pdf>

² <https://static1.squarespace.com/static/5d91f87725049149378fce82/t/651e8f4a46f77150281b9e0f/1696501578500/Joint+briefing+shorter+routes+to+settlement+September+2023.pdf>

In our responses to the consultation on the Electoral Reform³ we reiterate that people seeking asylum who are residents of Scotland should have the right to vote in both Scottish Parliament and Local Government elections, as they are directly impacted by decisions made by both these institutions.

The Scottish Government and local authorities have a key role to play in creating a system which falls in line with the vision of the New Scots Strategy for a “*welcoming Scotland where refugees and asylum seekers are able to rebuild their lives from the day they arrive*”⁴ - this is inclusive of civic integration, as well as language, education, and community integration.

Giving people seeking asylum the right to vote would make a powerful statement about belonging. It would demonstrate the right to an active role in the communities in which they are trying to rebuild their lives, a say in how their local neighbourhoods are structured, and how the country they now call home is being run.

People seeking asylum are the largest recorded group without voting rights in Scotland, and within the framework of the current immigration system, they are prevented from doing numerous things, housed in institutional accommodation that worsens isolation and wellbeing, and overwhelmed with restrictions on the most basic aspects of civic life. Whilst the Scottish Government does not have powers to legislate on immigration policies, directly responsible for many aspects of asylum seekers' lives (including accommodation, financial support and immigration status), they do have powers over the extension of the franchise in Scottish local and national elections. This Bill would have been an opportunity to redress the exclusion caused by migration status for those seeking asylum by providing them the opportunity to take part in democratic processes.

Furthermore, while we continue to support the extension of the candidacy rights to migrants with limited leave to remain in Scotland, our experience shows that the burden of raising awareness of these new rights, as well as providing information and support to exercise those rights, falls heavily on the third sector, including frontline and grassroots community organisations with limited staff and resources⁵.

We welcome the proposal of providing Scottish Ministers with new financial assistance powers to increase democratic engagement, and we ask for that to also

³ <https://www.justrightscotland.org.uk/wp-content/uploads/2023/03/Electoral-reform-consultation-JRS-response-.pdf> ; <https://www.justrightscotland.org.uk/wp-content/uploads/2023/03/Electoral-Reform-Consultation-Joint-response.pdf>

⁴ <https://www.gov.scot/publications/new-scots-refugee-integration-strategy-2018-2022/documents/>

⁵ JustCitizens, Maryhill Integration Network, Scottish Refugee Council, the Voices Network, and JustRight Scotland took part in numerous events, workshops, media campaigning, resources creation, and outreach work to ensure newly enfranchised residents knew of their right to vote. Some of our work can be found here: <https://justcitizens.scot/views/right-to-vote-in-scotland-our-views/>

be used to support organisations specialising in widening civic participation to target the additional barriers that migrants face when becoming involved in politics. Those barriers include the need to increase accessibility and address discrimination.

We would also like to highlight that the Scottish Government must be proactive in promoting information on candidacy rights⁶ that residents in Scotland have - specifically emphasising that democratic participation in communities is a right that people should be encouraged to exercise without fear of repercussions on immigration status. The Electoral Commission also has a fundamental role in providing guidance and support to those interested in standing for elections.

⁶ https://archive2021.parliament.scot/S5_Standards/Inquiries/ScottishRefugeeCouncil.pdf



For further information, please contact JustRight Scotland at:

Sabrina@justrightscotland.org.uk

06.03.2024