

# **Consultation on Prisoner Voting – Summary**

**Easy Read Version**

**January 2019**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

## **Introduction**

When the Scottish Parliament gained new powers over elections in the Scotland Act 2016, it became necessary to consider how to comply with the European Convention on Human Rights on the issue of prisoner voting.

This consultation covers Scottish Parliament Elections and Local Government Elections.

The Scottish Government thinks that only prisoners sentenced to short sentences should be able to vote. We want to hear your views on this.

## **Background**

The European Court of Human Rights (ECHR) found in 2005 that the UK's ban on any convicted prisoners voting in elections goes against their human rights.

The ECHR is an agreement between countries to protect human rights and political freedoms in Europe. It was agreed and signed by the members of the Council of Europe in 1950, including the UK.

The Council of Europe is a different organisation from the European Union and so any outcome of Brexit does not change how the ECHR agreement affects the UK.

Since 2016, the Scottish Parliament has had the power to say who can vote in Scottish local government elections.

The Scottish Parliament's Equalities and Human Rights Committee asked a large number of people and organisations for their views on this. They published a report on Prisoner Voting in Scotland on 14 May 2018. The report recommended that the Scottish Government should remove the ban on prisoner voting.

## **The Scottish Government's suggestions**

The Scottish Government knows people have strong views on whether or not prisoners should be able to vote.

We need to think about the rights of victims, the seriousness of the crimes, the rights of prisoners, and how they can be useful members of society.

Keeping all these things in mind, the Scottish Government doesn't think that all prisoners should be able to vote.

The Scottish Government thinks it would be best to let prisoners serving short sentences only to vote.

We want your views on what length of sentence this should be.

## **UK Parliament Elections**

The UK Government decided that those who are in the community on temporary licence would be able to vote in UK parliament elections. Temporary licence is a kind of parole aimed at helping offenders move back into the community.

The UK Government also said it should be made clear to people given prison sentences that they will not have the right to vote while in prison. The ECHR said that UK offenders are not told clearly enough that they cannot vote while serving a prison sentence.

These new rules came into effect across the UK in summer 2018.

## **Elections in Wales and Northern Ireland**

The National Assembly for Wales Commission consulted on prisoner voting in spring 2018. After this they decided that they need to look into this some more before they decide whether prisoners from Wales should be allowed to vote in Welsh National Assembly elections.

The changes made by the UK Government also apply to all elections in Northern Ireland.

# Options for Scottish Parliament and Scottish Local Government Elections

The Scottish Government does not think it would be right to let all prisoners vote. Some prisoners committed more serious crimes than others and they are usually given longer sentences because of this.

The Scottish Government thinks that the seriousness of a prisoner's crime should be taken into account when deciding if they should be allowed to vote or not.

Taking away prisoners' right to vote does not protect the public. Taking away prisoners' right to vote will not always stop people from committing crimes.

The views of prisoners on some political issues, including how prisons are run, are an important part of our democracy.

But taking away prisoners' right to vote, just like taking away some of their other rights, can be an appropriate part of their punishment for breaking the law.

The choices are:

- To take away prisoners' right to vote if their sentence is a certain length.
- To give the sentencing judge the option to take their voting rights away as part of their court sentence.
- To take voting rights away from prisoners who committed certain crimes.
- To give a prisoner the right to vote again only when they are near the end of their sentence

## **Option 1: Take votes away based on Length of Sentence**

The Scottish Government's favoured option is to take the right to vote away from prisoners who have been given a long sentence of imprisonment.

This would mean the right to vote is only taken away from those who commit the most serious crimes.

There are two kinds of prison sentences in Scotland: short-term sentences which are for less than four years and long-term sentences which are for four years or more. A short-term prisoner is automatically released from prison into the community after serving half of their sentence.

## **Option 2: Taking votes away as part of Court Sentence**

Another option would be to give courts the power to take away the right to vote as a sentence in itself. This means that a judge could decide to take away the vote when sentencing a person found guilty of a crime.

Scottish judges do not like this idea. They think the issue should be decided by Parliament and not be left up to judges to decide on a case by case basis.

## **Option 3: Take votes away based on Type of Crime**

Another option would be take away prisoner's votes depending on to the type of crime they committed. This way, prisoners convicted of more serious crimes would lose their right to vote.

This would mean we would have to decide how serious all crimes are and which should result in losing the right to vote.

A problem with this option is that there are different levels of seriousness for each crime. The seriousness of the crime is usually shown by the length of sentence given by the Court.

## **Option 4: Give the right to vote back towards end of sentence**

Another option would be to let each prisoner vote again at an agreed time before the end of their sentence.

A prisoner would lose the right to vote when they are sentenced to time in prison. They would then get the right to vote back when they have a certain time left to serve in prison.

The idea behind this is to help convicted prisoners become active members of society again as they get ready for release from prison.

But this would give the vote to people who have committed serious crimes whilst they are still in prison and might upset people who are victims of crime.

The complicated system of sentencing and prisoner release arrangements would mean this option would be hard to organise.

**Question 1: Do you think that prisoners' right to vote in Scottish Parliament and local government elections should be linked to the length of their sentence?**

YES

NO

**Question 2: If your answer to Question 1 is 'no', how do you think we should decide which prisoners can be allowed to vote?**

**Comments:**

**Question 3: If your answer to Question 1 is 'yes', What length should prisoners' sentences be for them to have the right to vote?**

12 months or less

6 months or less

Another duration

**Question 4: If your answer to the above is 'another duration', please specify this here**

## Where and how should prisoners vote?

We think that around 1000 prisoners would be given the vote if the sentence length was 12 months or less. If the limit was 6 months or less that would allow around 480 prisoners to vote.

Prisoners will not be able to vote in person. They will need to register for a postal or a proxy vote.

Prisoners would register to vote using a previous address or local authority, not the prison address. This would avoid the problem of large numbers of prisoners, registered to the prison, causing a big change to voter numbers and election results.

Prisoners wishing to register to vote will need to send a paper form to an Electoral Registration Officer ("ERO") to register. Postal votes would be sent to the prison address which prisoners have provided to EROs. Postal vote packs would not be opened by Scottish Prison Service ("SPS") staff when they enter or leave the prison.

**Question 5: Do you have any comments on where and how prisoners should vote?**

**Comments:**



**Question 6: Do you have any comments on anything that has not been covered already?**

**Comments:**

## **Sending us your answers**

The consultation opens on **Friday 14 December**. We would like you to give us your answer to the consultation questions by **8 March 2019**.

Responses can be sent to the Scottish Government via:

Email: [PrisonerVotingConsultation@gov.scot](mailto:PrisonerVotingConsultation@gov.scot)

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Online: <https://consult.gov.scot/>

<https://consult.gov.scot/elections/prisoner-voting>



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