

# Scots living overseas or elsewhere in the UK should have been given the right to vote in the independence referendum

By Democratic Audit UK

*Record numbers of voters have registered to take part in the Scottish independence referendum this month, and a very high turnout is expected. But the franchise for the election does not include Scottish citizens overseas or those living in the rest of the UK. In this post **Craig Berry** and **Richard Berry** argue that the exclusion of these voters is not justified, and violates established democratic principles.*



Many voters outside Scotland have been excluded from the referendum. Credit: [bioDevelopments-Inst](#), CC BY-NC-SA 2.0

It has been a source of humour that some of the biggest supporters of Scottish independence have been prevented from voting in this month's referendum. Celebrities like [Sean Connery](#) have loudly advocated a yes vote, despite being disqualified from voting by the residency rules set by the Scottish Government when it agreed the franchise of the election.

In some ways, the franchise for the referendum is more inclusive than it is for normal elections. Crucially, [16 and 17 year olds will be able to vote](#), and it seems huge numbers of them are planning to do so. Even members of the House of Lords, who are not permitted to vote in general elections, will get a vote in the referendum.

But the residency rules do not follow this pattern. Armed forces and Crown personnel who are registered to vote in Scotland but serving elsewhere can vote, but that's all. Nobody else living abroad can vote, even if they are registered to vote in Scotland already. This rule contradicts recent efforts to encourage expatriate citizens to exercise their electoral rights in the UK.

It is important to note that the Scottish Parliament and UK Parliament both voted to agree the terms of the referendum. The Scottish Government successfully made the proposal to exclude voters outside Scotland from the franchise, but it was unsuccessful in including a 'devo max' option on the ballot paper; the UK Government blocked this proposal, despite it being the most [popular](#) option with Scottish voters.

## Expatriate voting

UK citizens living overseas are still entitled to vote in UK elections, provided they were resident in the UK in the past 15 years. Their votes are cast in the constituency they were previously registered in. This means that a Scot could be living anywhere in the world and still have a say over who represents their former home town in Westminster or Holyrood.

The number of expatriates who register to vote is tiny, as a proportion of their number. There are an estimated five million Brits overseas, although fewer than 30,000 are registered to vote. This figure has fluctuated in recent years: a recent drive by the Electoral Commission ahead of the 2015 European Parliament elections [added 7,000](#) to the number.

Many of the five million expats will be disqualified because of the 15-year rule. The European Commission has [criticised this rule](#) and recommended it be abolished, a move which expat groups are also [campaigning](#) for. This month the Conservative Party said its abolition would be one of the measures in its [next manifesto](#).

The biggest draw to get expatriates voting is almost certainly to give them a vote on issues that matter to them. It is reasonable to expect interest in purely domestic or local affairs wanes for long-term expatriates. It is also reasonable to question the appropriateness of their participation. But the Scottish independence referendum is clearly an example of a decision that will have material and permanent implications for expatriate voters, potentially altering the nature of their citizenship and their freedom of movement between countries.

The same can be said of the proposed referendum on UK membership of the European Union, of course. The difference is that nobody has yet suggested stripping UK expatriates of their existing rights to vote in the EU referendum, but that is exactly what is happening in the independence vote.

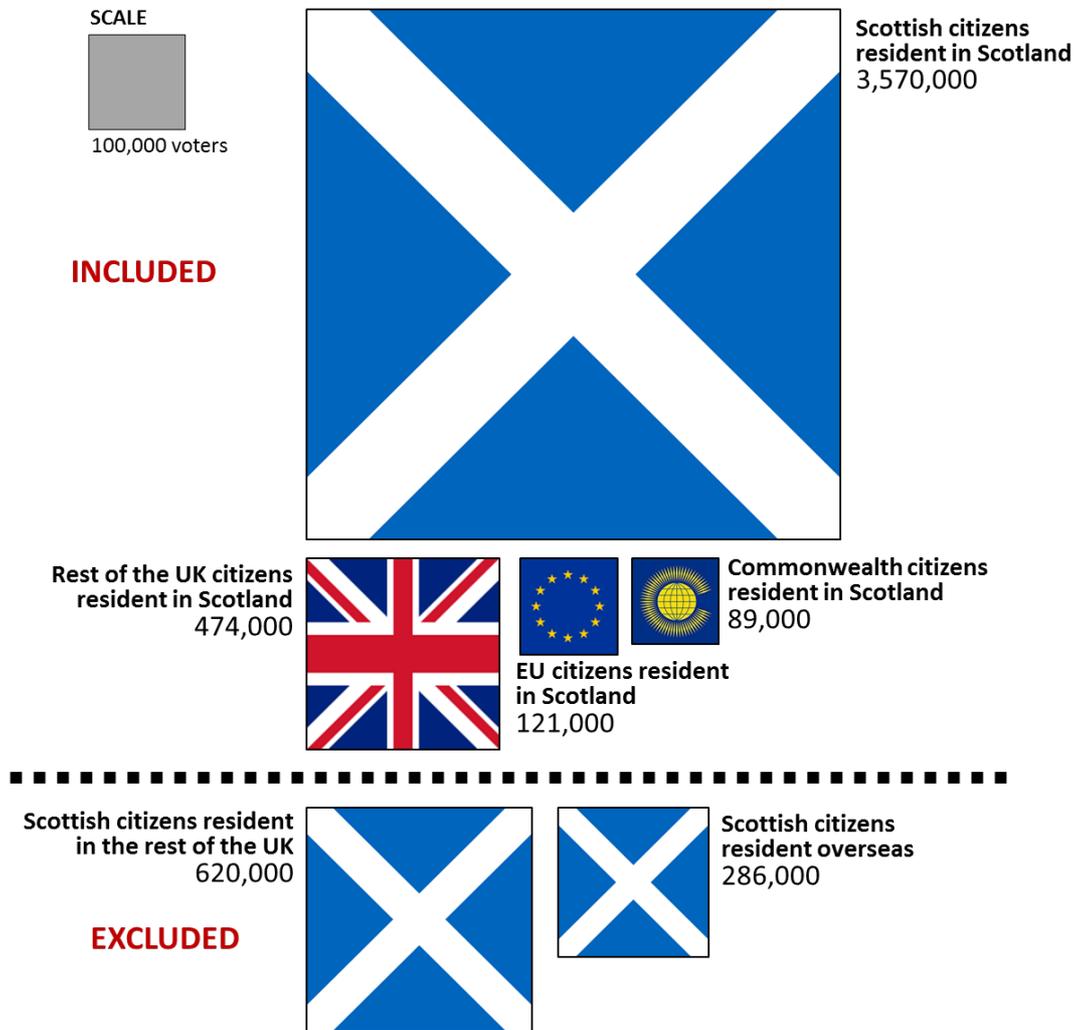
This is the key point: while there are arguments on both sides over the question of whether expatriates should vote in elections, what should not be allowed is gerrymandering of the franchise ahead of a specific election. The removal of voting rights from expatriates is a significant change to a fundamental part of the constitution, not a temporary measure to be decided election by election. A similar argument can legitimately be made about allowing 16 and 17 year olds to vote, but at least that change can be defended on the grounds that it doesn't involve stripping individual citizens of their rights.

## Scots in the rest of the UK

The most plausible explanation for why the Scottish Government wanted to remove voting rights from Scottish expatriates is that not doing so would have opened the door to the proposal to allow Scots living in the rest of the UK to vote. After all, if Scots living thousands of miles away can vote, there is no justification for Scots living in England, Northern Ireland and Wales to be disenfranchised. In fact, there is little justification at all for excluding Scots living in the rest of the UK on a decision of such magnitude, which directly affects them and is being taken by a political community to which they belong.

Although we cannot know for certain which way this group would have voted, it seems likely most would want to keep the union together; equal to about 15% of the resident Scottish population, votes from this group could have been decisive. The diagram below gives a rough breakdown of included and excluded voters based on residence and nationality, also covering European Union and Commonwealth citizens living in Scotland.

***Figure 1: Groups included in and excluded from the franchise for Scottish independence referendum based on residence and nationality (approximate size)***



Sources: Office for National Statistics, Scottish Government, Electoral Commission. Over 16s only. Overseas residents figure is estimated, assuming the same proportion of Scots emigrate as other UK nationals, and 75% have been abroad less than 15 years.

When this issue was [debated](#) by MSPs, the Scottish Government argued that including voters from the rest of the UK would have complicated the task of organising the referendum for election administrators. This is true, but it would hardly be more complex than adding 16 and 17 year olds to the franchise. For that reform, a second electoral register of young voters has been created, as opposed to adding under 18s to the main register. The same approach could have been used again, with a specific register created for Scottish voters in the rest of the UK, using some verifiable criteria for Scottish citizenship – such as place of birth – to determine who can join it. As this is a nationwide vote, the further administrative headache of assigning these voters to specific constituencies can be avoided.

Despite the low registration rates of expat voters, and the arbitrary nature of the 15-year rule, the UK has no tradition of removing democratic rights from those citizens who choose to live outside its borders. Very few democracies do. Indeed, many of those Scots living in the rest of the UK are very likely to gain the right to vote in Scottish elections after independence, if Scotland follows European norms regarding expat voting rights. So Scotland will be in the contradictory positioning of welcoming back its non-resident voters, having recently denied them a say over the country's existence.

*Note: This post represents the views of the author and does not give the position of Democratic Audit or LSE. Please read our [comments policy](#) before responding.*

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