



British Armed Forces Federation

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Scotland's Constitutional Future – UK Government Consultation – response on behalf of the British Armed Forces Federation

This response to the Scotland Office consultation is on behalf of the British Armed Forces Federation (“BAFF”), a representative all-ranks staff association for regular and reserve service personnel and veterans. BAFF has no political affiliation and is completely independent of the Ministry of Defence.

BAFF's origins lie partly in a high-profile campaign to encourage service voters to register and then to exercise their own voting choice in the General Election of 2005. Its present Chairman is the author of *Silence in the Ranks*ⁱ, an analysis which influenced some of the changes achieved in the Electoral Administration Act 2006. BAFF was represented on the Service Voter Working Group which was set up by the Ministry of Justice under the previous Government, in consultation with the Electoral Commission and the Ministry of Defence.

We are therefore grateful for this opportunity to respond to the UK Government's consultation on facilitating a legal, fair and decisive referendum on whether Scotland should leave the United Kingdom.

Our main concern is to ensure that the maximum proportion of eligible service personnel should be correctly registered to vote, and then have the genuine opportunity to participate and have their votes included in the count, irrespective of whether they are overseas or at sea or on operations at the time of the count. The same applies to the wives, husbands and civil partners of regular service personnel posted overseas.

On the registration process, surveys suggest that registration amongst forces voters has improved since *Silence in the Ranks*. According to a Ministry of Defence (MoD) survey, 75% of responding members of the Armed Forces say they are registered to vote. Research by the Electoral Commission, however, suggests that only 44% of service personnel who believe that they are registered to vote are, in fact, correctly registered in a way which would actually allow them to vote in an election or referendum.ⁱⁱ

On the voting process, proxy voting is not a feasible option for everyone, so there will be a need to ensure that the maximum number of eligible forces voters have the genuine opportunity to participate in the referendum by marking their own votes and having them included in the count.

This is not the place for a detailed discussion of registration and voting issues, but they have a major impact on electoral participation by forces voters. We look to the relevant branches of Government, along with the Electoral Commission, to give high priority to such issues and to include us and the three Service Family Federations in their consultations.

We found that considerable efforts were made to collect the “service vote” in the European Referendum of 1975. Although (under current proposals) only a minority of forces voters would be entitled to participate in a Scottish independence referendum, such a referendum

would arguably have an even greater impact on the lives and careers of those concerned, and would be even more irrevocable than the European referendum.

We therefore look to all concerned to give very high priority to participation by eligible forces voters in the proposed referendum.

On the specific questions raised in the consultation paper summary:

1. **What are your views on using the order making power provided in the Scotland Act 1998 to allow the Scottish Parliament to legislate for a legal referendum in an Act of the Scottish Parliament?**
2. **What are your views on the UK Parliament legislating to deliver a referendum on independence?**
3. **What are your views on whether the Scotland Bill should be used either to:**
 - i) **give the Scottish Parliament the power to legislate for a referendum; or**
 - ii) **directly deliver a referendum?**

It is in the interests of armed forces personnel as much as anyone that the referendum shall be legal, fair and decisive and that (as far as possible) the arrangements shall not be open to legal challenge either before or after the event. It is not for us to say whether it would be better to adopt primary legislation in the UK Parliament, or to adopt an Order under Section 30 of the Scotland Act 1998 followed by legislation in the Scottish Parliament.

We are, however, unconvinced that there is any other available means of holding an independence referendum, without it and its associated public expenditure being open to inevitable legal challenge.

Crucially, we do not foresee the Ministry of Defence itself undertaking the arrangements (and expenditure) which would be required, to support registration and voting, in order to facilitate a referendum which was in any way of uncertain legality and which was not fully supported by the UK Government.

Whichever legislative arrangement is adopted, it must be ensured that all necessary electoral administrative arrangements can be made to meet the requirements of service voters, including sufficient time for voting papers to be returned from those overseas and on operations.

4. What are your views on the oversight arrangements for a referendum on Scottish independence?

5. Do you think the Electoral Commission should have a role in overseeing a referendum on Scottish independence?

The Electoral Commission has acquired considerable experience and understanding of the needs of armed forces voters. It is in our submission absolutely essential that the Commission, rather than some improvised ad hoc body, shall take its normal role in the proposed referendum.

We appreciate that for some there may be a presentational issue arising from the fact that the Commission reports to the UK Parliament, but we are sure that this can be addressed by some joint committee arrangement between the UK and Scottish Parliaments for the purposes of the referendum. We repeat that it is essential in our submission that the Electoral Commission takes a full role, or the referendum will not be trusted.

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6. What are your views on which people should be entitled to vote in a Scottish independence referendum?

We appreciate the arguments for using the existing Scottish parliament and local government franchise for the referendum. We are broadly content with that franchise, but point out that it would exclude one group of forces voters who are registered to vote in Scotland.

The group in question are those who, while stationed overseas or residing overseas with their partners, have chosen to register as overseas voters rather than as service voters or as ordinary voters. We think it likely that on the whole, only a small and diminishing group are likely to have registered in this way – typically those on long-service postings in places such as Germany.

We would be suggesting that those Scottish forces voters who are registered to vote as overseas voters and wish to participate in an independence referendum should now review their electoral arrangements and (if entitled to) consider registering as service voters in Scotland instead. We think that some in that situation may still have difficulty changing their registration, subject to individual circumstances.

We have no position on suggestions elsewhere that the franchise should be substantially wider (such as including all UK voters, or those of Scottish ancestry). In the event that such suggestions were to be discussed further, we would simply mention that the nationality of all service personnel (such as BRITISH/SCOTTISH) is declared by them at enlistment and readily ascertained from their records. There should be no question, of course, of actually limiting the franchise according to nationality.

7. What are your views on the timing of a referendum?

The referendum should be held as soon as possible, but not in conjunction with any other vote. Holding it after the European Parliamentary Elections in June 2014, but well before the UK Parliament General Election, would appear sensible.

8. What are your views on the question or questions to be asked in a referendum?

Our researches have suggested to us that a single “either/or” question would be appropriate, in which voters are asked to select one of two equally-balanced propositions. A “yes/no” choice appears more appropriate to the situation where a detailed document, such as an Act or Treaty, is already in existence and only requires the electorate’s approval or disapproval. That does not appear to be the situation here.

9. What are your views on the draft section 30 Order?

Please see our response on Questions 1-3.

On behalf of the British Armed Forces Federation (BAFF)
DOUGLAS YOUNG
Executive Chairman

March 2012

ⁱ *Silence in the Ranks*, An analysis of factors inhibiting electoral participation by HM Forces personnel and their families in the General Election of May 2005, with recommendations on the way forward. <http://snipurl.com/22jclcy>

ⁱⁱ Telegraph.co.uk 06 Feb 2012, *Reminder for Armed Forces that voting registration deadline looms*, <http://snipurl.com/22je12k>