

PROVISIONAL CONSTITUTION OF SCOTLAND

Reviewed-2017

PREAMBLE

The people of Scotland share a common belief in democracy, freedom, fairness, tolerance and equality. They are entitled to liberty and justice; safety, security and sustainability; health and economic well being; with accessibility, participation, partnership and accountability as principles of governance.

The Constitution enshrines clearly defined principles of governance whilst recognising individual rights and responsibilities and will seek to:

recognise a system of government wherein the people of Scotland are the sovereign power and invest that sovereignty in a Scots Parliament for and of the people.

define the rights and responsibility of the state and the people, and define the powers, obligations, duties and limitations of the state.

provide a system of government in which power is shared between national, regional and community government, and managed by elected representatives who are accountable to the people.

CONSTITUTION

We, the people of Scotland, being the supreme sovereign authority in Scotland, grant the Parliament of Scotland the authority to govern the people and territory of Scotland in accordance with the following Constitution:

Article 1: General Provisions

1. Scotland is a free, independent and sovereign commonwealth. Its form of government is a parliamentary democracy based on the sovereignty of the people, social justice and respect for human rights.
2. This Constitution is the supreme and fundamental law of Scotland: all new law shall be governed by these articles and existing laws shall continue in force upon its formal adoption but shall within a period of three years there from be reviewed under the aegis of the Supreme Court of Justice in Scotland and where necessary modified to comply.

3. The land, territorial waters and airspace of Scotland are an inseparable and indivisible whole, belonging to the people of Scotland collectively as a nation, as communities and as individuals.

4. The territory of Scotland comprises all land to the north of the land border, running as in 1707 between the Solway Firth and the mouth of the River Tweed, and the surrounding sea and air space areas to a limit of 200 nautical miles or the relevant median lines, from Shetland in the North to Rockall in the West, or to such further limits as may in future be set or allowed by international law.

5. Citizenship:

a) All persons born in Scotland with a parent of Scots nationality have the right to be citizens of Scotland.

b) All persons with at least one parent of Scots nationality, although they themselves not having been born in Scotland, have the automatic right to apply for citizenship as per clause 5d.

c) All persons, resident, and on the electoral register, when Scotland resumes sovereign status, have the right to be citizens of Scotland.

d) Parliament will enact laws to regulate the acquisition of Scottish citizenship by adoption, marriage, descent, or naturalisation, and to specify the manner in which citizenship may be lost or renounced.

e) Parliament will specify the circumstances and conditions under which dual citizenship with other states may be held.

f) Laws concerning the acquisition or renunciation of citizenship must not unfairly discriminate on the grounds of gender, ethnicity, religion, beliefs, disability, personal status or sexual orientation.

6. All citizens of Scotland, resident, and on the electoral register, are entitled to vote in all referendums and elections on reaching the Statutory Age of Maturity, except for persons under guardianship due to severe mental incapacity as defined by a specific medical or judicial certification.

7. Governmental authority will be exercised on the basis of this Constitution, on election and electoral mandates, and such laws as are in accordance with the Constitution.

8. Only laws published in the manner prescribed in Article 4 may be enforced.

Article 2: The Fundamental Rights, Liberties and Duties of the People

1. **The European Convention on Human Rights that entered into force, on the 3rd September 1953 will be adopted in full as part of the Fundamental Law of Scotland.** The European Convention on Human Rights enables the principles of the Universal Declaration of Human Rights proclaimed by the General assembly of the United Nations on the 10th December 1948.

2. **All citizens will be expected to uphold these rights.** There will be no interference by a public authority with the exercise of these rights, except in the interests of national security or public safety, unless permitted in law.

3. **The rights and freedoms** set forth in this Constitution will be enjoyed without discrimination on grounds of age, sex, race, colour, disability, impairment, language, culture, religion, political or other

opinion, national or social origin, association with a national minority, property, birth or other status.

4. **Freedom of expression** through the media and electronic communication and public demonstrations is guaranteed, subject to the law.

5. **The right to life** is protected. The death penalty is prohibited. All persons have the right to die with dignity and to request assistance to end their lives.

6. **All citizens have the right to:**

liberty, other than by lawful arrest and detention.

freedom of religion, provided it is practiced within Scots law.

freedom of expression, within the law.

freedom of information in relation to all public organisations and public bodies, as provided for under data protection legislation.

peaceful assembly. This right may be restricted in accordance with procedures determined by law for the purpose of national security, and the safety of individuals.

free, quality healthcare at the point of need, subject to available resources.

privacy respected in regard to electronic and written communication regarding private and family life, other than is necessary and reasonable in a democratic society to prevent abuse of this right.

use of reasonable force to defend self and family under threat of violence. Reasonable force defined as up to and inflicting actual bodily harm on the antagonist, short of actual death.

be secure against search, seizure or forced entry, other than in accordance with a warrant issued by a magistrate on evidence presented or in accordance with police powers to respond to protect someone in immediate danger.

be free from, and protected from, torture or inhuman or degrading treatment or punishment. No person will be held in slavery and all forms of forced labour are prohibited, but work incidental to the serving of a sentence of imprisonment imposed by a court of law will not be taken to be forced labour within the meaning of this Article.

be treated with dignity, and to participate in society as full and equal members, and to have barriers to such participation removed.

enter and to remain in Scotland, and to leave the country unless subject to a court order.

7. **Everyone has the right to an adequate and free basic education**. Children have the right to receive basic education. The education will safeguard the individual's abilities and needs, and promote respect for democracy, the rule of law and human rights.

The authorities of the state will ensure access to upper secondary education and equal opportunities for higher education on the basis of qualifications.

8. **All citizens are equal before the law**, and have the right to equal benefit of the law.

9. **All children will be guaranteed by law the protection and care that their well-being requires**; the best interests of the child will always take precedence when decisions are made regarding a child's affairs.

9. **Everyone arrested or detained has the right to be informed of the reasons**, and to be informed of

their right to retain and instruct counsel. They have the right to have the validity of their detention determined by habeas corpus, being a writ requiring persons to be brought into court for a judge to decide whether their detention is lawful.

10. **Any person charged with an offence has the right to be informed of the particulars of the alleged offence;** to be tried within a stated elapse of time and to be presumed innocent until proven guilty.

11. **Scots, English and Scots Gaelic are the languages of Scotland.** Notwithstanding, all documentation of a legal nature, and concerning the actions or deeds of the Scottish Parliament and Justice System, will be recorded in the English language, which will have precedence over any other written translations.

Article 3: The Head of State

1 The People of Scotland will select the Head of State

2 The Head of State will be bound by an Oath, as prescribed by Schedule 1(a), to uphold, defend and obey the Constitution and laws of Scotland.

3 The Head of State will be remunerated as determined by law. The Head of State accounts will be open to scrutiny by Parliament, and reviewed as per law.

4 The Head of State will be deemed to be a servant of the state, and will therefore be considered to be impartial to all matters politic.

5 The Head of State will possess only such powers as are expressly vested in him or her by this Constitution, and will exercise those powers with the advice and consent of the responsible constitutional authorities as follows:

a) Dissolving Parliament on the advice of the Presiding Officer in accordance with the provisions of Sections 3, 7, 8 and 9 of Article 4.

b) Confirming assent to legislation, in accordance with the provisions of Sections 18(d), 19 and 21 of Article 4.

c) Appointing Ministers, in accordance with the provisions of Sections 2,3 and 4 of Article 5.

d) Awarding civic honours in recognition of public services, as prescribed by law.

e) Accrediting and receiving ambassadors, and performing other associated duties, as directed by the Scottish Government.

6. During the absence of the Head of State from Scotland, or inability to perform his or her duties, the constitutional powers and functions of the Head of State stated in Section (3) of this article may be delegated to a designated Commissioner. The Executive will appoint the Commissioner, on the nomination of the Parliamentary Bureau. No serving Member of Parliament, or Minister, may serve as the Commissioner.

Article 4: Parliament

1. Subject to the rights of the People, the supreme legislative power is entrusted to a unicameral Parliament.

2. Parliament consists of representatives, elected by the People, together with an executive Council of Ministers, elected from the representatives in Parliament, hereafter termed the Scottish Government.
3. Parliament will sit for a statutory period of four years and will be supported by a Civil Service.
4. Parliament comprises one hundred and eighty-four representatives elected from thirty-eight parliamentary constituencies effected under an Act. (5 representatives elected from each of 35 parliamentary constituencies plus 3 representatives elected from each of the 3 island parliamentary constituencies).
5. Representatives in Parliament, hereafter referred to as Members of the Scottish Parliament, are elected by a secret ballot using the Single Transferable Vote system of proportional representation.
 - (a) The general elections take place on the first Sunday in May with the rules for campaign expenditure for parliamentary candidates being set by an Act (of Parliament).
 - (b) All registered Scottish citizens, aged sixteen years or over are entitled to vote in the Parliamentary elections.
 - (c) Constituency boundaries are set by an Act, on the recommendation of the Boundary Commission, having due regard for regional, cultural and historical ties, economic expediency and the requirements of regional planning.
6. Every person eligible to vote in elections for the Scottish Parliament is eligible to stand for election to Parliament. No person who holds executive, administrative, military, diplomatic or judicial public office (other than Ministerial office) may be elected to Parliament unless they resign from the incompatible office.
7. Vacancies in Parliament arising from the death, resignation or removal of a member will be filled within three months. Unless a general election is due in that time, vacancies will be filled by a by-election.
8. Parliament will elect from amongst its members a Presiding Officer and Deputy Presiding Officers to convene its sessions and enforce its rules of procedure. These officers are elected as the first item of business after each general election, by a secret ballot and by a majority vote. The Presiding Officer and the Deputy Presiding Officers when in the chair must perform their duties in a strictly non-partisan manner.
9. Parliament will, except as stated in Sections 10, 11 and 12 of this Article, continue in office for a fixed statutory term of four years; and the Head of State, acting on the advice of the Presiding Officer, will dissolve each Parliament on the fourth anniversary of the preceding dissolution, and issue writs for a general election to be held within the next thirty days.¹⁰
10. Parliament has failed to appoint a Council of Ministers within the period of 30 days as specified in Section (3) of Article 5, then the Presiding Officer, after consulting the various parliamentary groups, may advise the Head of State to dissolve Parliament; writs will thereupon be issued for a general election to be held within a period of 30 days.
11. If Parliament, by a two-thirds majority vote of its members, passes a resolution calling for its own dissolution, in order to resolve an impasse or to seek a fresh mandate from the people, the Presiding Officer will advise the Head of State to dissolve parliament; writs will therefore be issued for a general election to be held within a 30 day period.

12. Parliament will have the power, in time of war or national public emergency, to extend its term of office for a period not exceeding 12 months, by means of a resolution passed by a two-thirds majority of its members.

13. Parliament will determine its own sessions and adjournments; provided, that it must assemble within seven days after each general election, and it must assemble each year for regular sessions as provided by law. The Presiding Officer will summon extraordinary sessions, whenever she/he deems it necessary, or if so required by the Scottish Government, or by one-third of the members of Parliament.

14. There will be a Parliamentary Bureau, consisting of the Presiding Officer (as convenor) and eight Members of Parliament representing a cross-section of members. The Parliamentary Bureau will prepare Parliament's agenda and order of business. In the arrangement of parliamentary time, due precedence will be given to the legislative business initiated by the Council of Ministers, but at least one-fourth of the parliamentary time will be reserved for the Opposition and individual member's business.

15. There will be a Parliamentary Corporate Body, consisting of the Presiding Officer (as convenor), the Deputy Presiding Officers, and four other members of Parliament elected by proportional representation at the commencement of each session. The Corporate Body will manage Parliament's staff, buildings, facilities, security and budget, and will propose the rules of procedure, which may be adopted for amendment by a two-thirds majority vote of Parliament.

16. All Members of the Scottish Parliament will be allowed:

a) Freedom of speech and debate in Parliament, subject only to Parliament's own rules of procedure (Standing Orders).

b) Freedom to vote in accordance with their personal conviction and electoral pledges, free from intimidation from others

c) A moderate salary, and other incidental allowances, as prescribed by law.

17. Parliament is the sole authority empowered to enact legislation on behalf of the people. All such legislation will have a term life of 50 years for civil and criminal laws, 25 years for general laws, and four years for those laws which place certain restrictions on civil liberties, thereafter terminating unless continued by the Parliament.

18. Subject also to any detailed provisions prescribed by Parliament's own rules of procedure, Parliament will enact laws in the following manner.

(a) Legislative bills may be proposed by the Scottish Government, by any individual member of Parliament, or by means of a public petition signed by at least five per cent of the registered voters; provided, that money bills, which will be limited to matters of public revenues and finance, may only be proposed by a responsible Minister.

(b) The submitted legislative bills will be subjected to deliberation and process by an appropriate parliamentary committee before they are debated in Parliament. An assessment of the impact of legislation will accompany legislative bills.

(c) The bill will be debated in Parliament, and if approved by a majority of those voting, it will be

presented to the appropriate committee of Parliament. The committee will conduct hearings, to which representations may be made by or on behalf of all persons or groups interested in the subject matter of the bill. The committee will have the right to subpoena persons, who will be required to provide evidence, under oath.

(d) The committee will report on the bill to Parliament, and will recommend such amendments, as they deem necessary or expedient. The committee will ensure the bill is fit for purpose and the financial costs of implementation are fully evaluated. Parliament will vote on the amended bill.

(e) Parliament will vote upon the bill in the form agreed in the previous stage. The bill will be deemed to have passed if approved by a simple majority of Members of Parliament.

19. The Head of State, on the advice of the Presiding Officer, will grant assent to, and thus enact as law, all bills passed by Parliament according to the aforesaid provisions.

22. The Act of Parliament for the levying of public revenues and the fiscal budget (money bill) will remain in force for a full term of Parliament after the date on which the Act came into force.

23. Parliament will appoint committees to inspect and oversee the Government and to scrutinise specific legislation. They will consist of at least seven (7) members, chosen by parliamentary vote, by proportional representation.

24. Parliament will also appoint Parliamentary Commissions and Boards of Enquiry, which may include expert advisors from outside of Parliament, in order to investigate and report on particular decisions or particular aspects of policy, legislation, or administration. Their composition, duration and terms of reference will be specified by a parliamentary resolution.

25. Parliamentary Committees, Parliamentary Commissions and Boards of Enquiry will have right of access to official documents, files and other evidence, and the power to summon and subpoena witnesses, including Ministers and other officials, to provide evidence given under oath.

26. Members of Parliament holding a ministerial office will, by virtue of that office, be disqualified from membership of all select committees and from Parliament's Corporate Body. They may serve on Parliamentary Commissions and Boards of Enquiry only where there is no conflict of interest.

27. The proceedings of Parliament, its committees and commissions, will be open to the public and media, except in matters of national security, where the Presiding Officer may, upon appropriate advice, determine that it is advisable to carry out the debate in camera.

28. The non-government aligned Members of the Scottish Parliament may elect a member who will be designated by the Presiding Officer as the Leader of the Opposition.

29. Members of the Scottish Parliament will swear an oath of allegiance to serve and promote the wellbeing of the people of Scotland, to uphold the laws and Constitution of Scotland; and to act on behalf of the people of the constituency represented.

30. Parliament will have the authority to initiate a vote of no confidence in an individual Minister, the Scottish Government as a whole, or an individual Member of Parliament. The Parliamentary Bureau will have the authority to discipline the offender/s.

31. The electorate are empowered to raise a Petition to Recall a Member of the Scottish Parliament, hereafter referred to as an MSP.

The petition will be initiated when 1 (one) per cent of the registered electorate of the constituency, consider that a constituency MSP has failed to perform his or her duties on grounds of negligence, corruption, criminal conviction, dishonesty, or other gross misconduct or, in the view of the constituents has simply ceased to

represent their interests.

A successful petition, signed by 10 (ten) per cent or more of the registered electorate of the constituency within a period of eight weeks will confirm the Recall of the MSP. The Electoral Commission will regulate the Recall Petition process.

32. A petition signed by 220,000 or more registered voters within six months, calling for a popular vote on an issue of concern to the people, will be referred to Parliament. A Public Petitions Committee will decide on a course of action regarding petitions submitted by individuals, community groups and organisations. If the issue or concern cannot be resolved by Parliament then it will be put to a referendum. A referendum held under this provision will be legally binding.

Article 5: The Scottish Government

1. The Executive power will be invested in the Scottish Government, which will consist of a Cabinet, comprising a First Minister, a Deputy First Minister and Cabinet Secretaries. The Cabinet will be supported by such Ministers as may be required to conduct the government of the state. The Scottish Government will collectively be responsible to Parliament.

2. The First Minister will be elected by Parliament from amongst its numbers, by open ballot and a simple majority vote.

3. The First Minister will be elected and appointed within thirty (30) days after each General Election, and within thirty (30) days after the death, resignation, or removal, of the former First Minister. If a First Minister has not been elected during this time, Parliament may be dissolved in accordance with the provisions of Article 4 Section 10.

4. The incumbent First Minister and Cabinet will continue in office in a caretaker capacity, following a General Election, until a successor is appointed. Following the death, resignation or removal of a First Minister, and until the appointment of a successor, the Scottish Government will act in a caretaker capacity.

5. All Cabinet Secretaries and other Ministers will be nominated by the First Minister, from amongst the members of Parliament, and voted in by a simple majority of Parliament.

6. The Scottish Government, subject to the Constitution and the law, will determine all matters of foreign and domestic policy. It will direct the administration, conduct foreign relations and manage monetary and fiscal policies. It may prepare draft legislation, and other business, to lay before Parliament. A majority of Cabinet Secretaries must be present at the meetings when such decisions are made.

7. The administrative officials, subordinate to the Scottish Government, will be organised as a permanent, professional and non-partisan Civil Service, and will be regulated by the Public Service Commission.

8. Authority over the Armed Forces, subject to the Constitution and law, will be vested in the Scottish Government. No declaration of war may be made, or overseas deployment of troops undertaken, except with the prior consent of a two-thirds majority of Parliament. If Scotland is under actual, or imminent, enemy attack, the Scottish Government will undertake all necessary defensive action.

9. No treaty or international agreement of any kind will come into effect unless it is ratified by Parliament, either by a majority resolution or, to the extent that it concerns domestic laws, by enabling legislation. Treaties delegating sovereignty powers (legislative, administrative, judicial, military, fiscal

or territorial) to a confederation, union, alliance or international body will take effect only if ratified by a two-thirds majority of Parliament followed by a public plebiscite achieving a majority vote.

10. The Cabinet will appoint an executive quorum to provide an informed response to any significant or emergency situation when Parliament is not in session.

11. Non-government organisations will operate under the direct authority of the office of the responsible Cabinet Secretary.

12. The Scottish Government may appoint Special Advisors from outwith Parliament. The Special Advisors will be selected on account of their specialist knowledge, experience and qualifications.

13. All Cabinet members are required to provide Parliament with a yearly report outlining an account of matters falling under their authority.

14. While in office, Cabinet Secretaries and Ministers are not permitted to undertake any other employment, whether paid or unpaid, and must not engage in employment in any way related to their ministerial duties for a period of five years after leaving office.

15. On appointment to a cabinet or a ministerial post, any existing commercial obligations or contract of service must be declared and settled or unconditionally terminated. All shares or investments in commercial organisations owned by the appointee must be declared and will be held in escrow for the duration of the appointment, and for a further period of six months after leaving office.

16. It will be illegal for any individual or organisation to lobby or otherwise influence a Member of the Scottish parliament without having first registered with the Parliamentary Bureau and agreed to the terms and conditions applicable to lobbying.

Article 6: Public Finances

6.1. National Currency and Bank Regulation.

6.1.1. The National Currency of Scotland is the Scots Pound, being Constitutional Money guaranteed by the State in accordance with the Constitution.

6.1.2. The Central Bank of Scotland is the executive arm of the Constitutional Monetary Authority and will (a) originate the currency and (b) regulate its distribution through the Full Reserve banking system.

6.1.3. The Scots Pound is issued free of debt by the Central Bank of Scotland and in Scotland is the sole legal tender and circulating medium of exchange comprising cash or credit instruments. The origination or placing into circulation of any other money or money substitute shall be an act of counterfeit.

6.2 Government Finances & Taxation

6.2.1. The Scottish Government will adopt a balanced budget for the full term of its administration.

6.2.2. A percentage of all Government revenues will be allocated to a National Sustainability Fund.

6.2.3. A National Revenue Service will collect all revenues.

6.2.4. Regional Assemblies and City Councils will adopt a balanced Budget for their full term of

office.

6.2.5. The Central Bank of Scotland will provide Regional Assemblies with the funding required to finance new infrastructure projects.

6.2.6. Regional Assemblies will provide the funding and resources required by Community Councils within their area of responsibility.

Article 7: Judiciary and Prosecution Service

7.1. The Judiciary

7.1.1. In the exercise and function of its jurisdiction, the Judiciary is independent of the legislative and executive branches of government.

7.1.2. The judicial powers of Scotland are invested in the Court of Session and the High Court of Judiciary and in such subordinate courts as provided in law.

7.1.3. The Lord President of the Court of Session, judges, sheriffs and justices of the peace are appointed in accordance with the law.

7.1.4. The Judiciary will operate in accordance with the Statement of Principles of Judicial Ethics for the Scottish Judiciary.

7.1.5. The organisation, powers, structure, jurisdiction, privileges, and procedures of the various Courts are governed by law.

7.1.6. The organisation and procedures of the Law Commission are governed by law.

7.2. Scottish Prosecution Service

7.2.1. The Crown Office and Procurator Service is the independent prosecution service of Scotland and a Ministerial Department of the Scottish Government.

7.2.2. The Lord Advocate is responsible for the Crown Office and the Solicitor General is responsible for the Procurator Service. Both appointments are made on the recommendation of the First Minister.

7.2.3. The Cabinet Secretary for Justice will exercise the right of pardon, and of remitting punishments, following due consideration by an independent Pardons board.

Article 8: Constitutional Amendments

1. Amendments to the Constitution will require a two-thirds majority vote in parliament followed by a public plebiscite achieving a majority vote.

Article 9: Government Audit and Complaint Services

9.1. The **Auditor-General service** is responsible for auditing central government departments, government agencies and non-departmental public bodies and for setting national codes of audit practice and guidance for local government bodies.

9.2. The **Public Services Ombudsman** is the organisation whose duty is to investigate complaints of maladministration, injustice, neglect of duty, incompetence, delay, or mistake, alleged to have been committed by, or to have been caused by the negligence or mistake of, Ministers, civil servants, local government bodies, public utilities, or other public authorities.

9.3. The Auditor-General and the Ombudsman have full powers of investigation, including access to all records and correspondence, and the right to summon and subpoena witnesses, and hear evidence on oath. They submit annual reports of their activities to Parliament and Regional Assemblies, but are independent of the Government in the exercise of their functions, with a duty to act impartially.

Article 10: Regional and Local Government

10.1.1 In accordance with the principles of subsidiarity and to empower decision-making at the appropriate local level, autonomous authority for governance and administration is devolved to eighteen (18) Regions, which are then sub-divided into multiple Communities with devolved powers.

10.1.2. The apportioning of devolved administrative authority, resources and funding between Regional Assemblies and Community Councils, are jointly agreed. *(Note 6)* A national convention will be held every four years to review the devolved authority and resources.

10.1.3. The public services provided will meet national standards of quality and performance and will be audited annually.

10.1.4. Candidates for Regional Assemblies and Community Councils are elected by secret ballot using the single transferable vote system of proportional representation, for a four-year term of office.

10.1.5. The numbers of representatives for Regional Assemblies and Community Councils will be based on a system of proportionality of the electorate as set by law.

10.1.6. Elections will take place on the first Sunday in May and all of the registered electorate, resident within the region, are eligible to vote in the regional elections, and those resident in communities are eligible to vote in community elections.

10.1.7. All registered Scottish citizens, aged sixteen (16) years or over, are entitled to vote in Regional and Community elections.

10.1.8. Campaign funding expenditure for each prospective candidate will be set by law.

10.1.9. Members of Regional Assemblies and Community Councils are remunerated as determined by law. The details of remuneration received by elected representatives to be available on public websites.

10.1.10. Regional Assemblies and Community Councils will have independent budgets, for which the law will determine the principles of formation and procedures; the Regional Assemblies and Community Councils are required to maintain balanced budgets.

10.1.11. Regional Assemblies and Community Councils shall be non-party in politics and non-sectarian in religion.

10.1.12. The electorate are empowered to raise a Petition to Recall a Member of either a Regional Assembly or Community Council.

The petition will be initiated when 1 (one) per cent of the registered electorate within the represented

area consider that the representative has failed to perform his or her duties on grounds of negligence, corruption, criminal conviction, dishonesty, or other gross misconduct or, in the view of the constituents has simply ceased to represent their interests.

A successful petition, signed by 10 (ten) per cent or more of the registered electorate of the represented area within a period of eight weeks will confirm the Recall of the Representative. The Electoral Commission will regulate the Recall Petition process.

10.2 Regional Assemblies

10.2.1. The eighteen regions comprise ten (10) mainland regions plus the five (5) cities of Glasgow, Edinburgh, Dundee, Aberdeen and Inverness, plus the three (3) island communities of the Orkney Isles, Shetland Isles and the Western Isles.

10.2.2. Regional Assembly boundaries are set by law, on the recommendation of an Independent Boundary Commission, having due regard for cultural and historical, economic expediency, and contained within the Parliamentary Electoral Constituency boundaries.

10.2.3. Representatives in Regional Assemblies, hereafter referred to, as Commissioners are required to abide by a Code of Conduct and operate in accordance with a written Constitution, which will set out the powers, duties and responsibilities of Commissioners.

10.2.4. Persons standing as candidates for election as Commissioners will when elected be resident in the Region represented.

10.2.5. Each Regional Assembly elects from amongst its numbers a Convener and a Depute Convener to preside over meetings and to represent it in its external affairs. Each elected body will also select a Chief Executive.

10.2.6. The employees of the Regional Assemblies will be organized as a permanent, professional and non-partisan service, which is accountable to the Regional Assembly and regulated by the Public Service Commission

10.2.7. Regional Assemblies are responsible, within their area of jurisdiction, for the collection of all public revenues, legal fines, rents and duties imposed by Parliamentary Money Bills.

10.2.8. Regional assemblies are empowered to set and collect local revenues, legal fines and rents from their areas of jurisdiction, including the seabed within the adjoining Exclusive Economic Zone.

10.2.9. Regional Assemblies are statutory consultees in the preparation of parliamentary legislation.

10.2.10. There will be provision for Regional citizen initiated referendums, whereby a petition signed by one fifth or more registered voters calling for a popular vote on an issue of concern to the people within the Region is first referred to the Regional Assembly and then put to a popular vote if the issue of concern has not been responded to by the Regional Assembly.

10.3 Community Councils

10.3.1. Regions are sub-divided into Communities, each governed by a Council. The Community Council jurisdiction boundaries are set by law on the recommendations of an Independent Boundary Commission, having due regard for cultural, local associations and established local communities.

10.3.2. Community Councils operate in accordance with devolved authority, agreed in consultation with the Regional assembly, which sets out the powers, duties and responsibilities of Community Councillors and the public service resources accountable to them.

10.3.3. Representatives of Community Councils, hereafter referred to, as Councillors are required to

abide by a Code of Conduct and operate in accordance with a written Constitution.

10.3.4. Each Community Council elects from amongst its numbers a Chair and a Depute Chair to preside over meetings and to represent it in its external affairs.

10.3.5. All persons standing as candidates for election as Community Councillors will when elected be resident in the area represented.

10.3.6. Community Councils will be consulted in the course of the preparation of legislation relevant to the functioning of community administration and development.

Article 11: Independent Commissions

11.1. There will be non-partisan, task specific, Independent Commissions, free from outside or political control, which works towards a specific goal for the state. Their major responsibilities are to protect the sovereignty of the people; to ensure that all state bodies observe democratic values and principles; and to promote constitutional values and principles; Commissions are supported by staff appointed by and accountable to them.

11.2. Independent Commissions will consist of seven to nine members; of which three members will be appointed by Parliament and Regional Assemblies will appoint the other members; they may not simultaneously hold any other public office; their terms of employment, salaries and allowances will be fixed by law and in parity to those of Members of Parliament.

11.3. Included within the range of commissions will be a **Training Standards Commission** that will determine and set the standards of mandatory management training for elected representatives for Parliament, Regional Assemblies and Community Councils, to provide them with the necessary skills and knowledge to carry out their duties effectively.

Extract 23

Article 12: General Statutes

1. **National Security.** Under the oversight of the Scottish Government there will be a national agency to provide overall interactive management of all homeland security and defence matters utilising the police, intelligence agencies and the armed forces.

2. **Armed Forces.** To provide territorial defence and support in civil emergencies there will be a conventionally armed Scottish Defence Force; the law will provide for participation in humanitarian aid activities and in selected United Nations mandated peacekeeping operations.

3. **Law Enforcement.** Domestic law will be enforced by an interactive network of police divisions operating under a National Police Authority; operating within nationwide standard operating protocols and procedures. There will be national specialist teams to provide assistance when required to the regional division forces. The law will provide for participation with international law enforcement agencies.

Extract 24

4. **Prohibition on Death Penalty.** The Constitution will prohibit Parliament from enacting any law allowing for the imposition of the death penalty even during a time of war or armed rebellion. However laws will be amended as required to ensure the harshest of penalties to be placed on those who commit

crimes such as premeditated murder, serial killings and treason. Additionally, our police and prison officers and others serving the public will be given protection against those who do them harm by the application of severe penalties upon them.

5. **Emergency Powers.** During a national emergency the executive can declare a state of emergency; a declared state of emergency allows the executive to immediately make any desired regulations to secure public order, safety and health; the declaration will expire after 30 days or the legislature can revoke it earlier; the actions of the executive cannot be found to be unconstitutional provided they are pursuing the humane conclusion of the emergency; these emergency powers will however be restricted to the duration of the emergency.

Extract 25

6. **International Treaties.** The Government is authorised to enter into treaties, international agreements and membership of international organisations in the name of the Scottish people. Such commitments are always subject to ratification by Parliament. Where transfer of sovereignty is involved a referendum must be held, and this may be demanded in any such case under the relevant constitutional procedure as in Article 8. All such international commitments must comply with this Constitution and be revocable at any time in accordance with the sovereignty of the Scottish people.

7. **Natural Resources.** Scotland's natural resources which are not in private ownership are the common and perpetual property of the nation. No one may acquire the natural resources or their attached rights for ownership or permanent use, and they may never be sold or mortgaged.

Resources under national ownership include resources such as harvestable fish stocks, other resources of the sea, the sea shore and sea bed within Scottish jurisdiction and sources of water rights and power development rights, geothermal energy and mining rights. National ownership of resources below a certain depth from the surface of the earth may be provided for by law.

The utilisation of the resources will be guided by sustainable development and the public interest.

Government authorities, together with those who utilise the resources, are responsible for the protection of the resources. On the basis of law, government authorities may grant permits for the use or utilisation of resources or other public goods against full consideration and for a reasonable period of time. Such permits will be granted on a non-discriminatory basis and will never entail ownership or irrevocable control of the resources.

8. **Protection of animals.** The protection of animals against abuse and the protection of endangered species of animal will be provided for by law.

Schedule 1

a) Citizen's Oath of Allegiance and Loyalty

I....., do solemnly swear (or affirm) that I will be faithful and bear true allegiance to the people of Scotland, and that I will observe the Law of this land.

b) Oath as Member of Parliament

I....., having been elected as a Member of the Parliament of Scotland, do solemnly swear (or affirm) that I will faithfully discharge my duties to the best of my ability on behalf of my constituents, that I will bear true faith and allegiance to the Sovereign People of Scotland, and that I will preserve, protect and defend the Constitution and the Law of Scotland.

c) Oath as Regional Assembly Member or a Community Councillor

I....., having been elected as a Councillor for theRegion (or Burgh of), do solemnly swear (or affirm) that I will faithfully discharge my duties to the best of my ability, and that I will preserve, protect and defend the rights of my constituents under the Constitution and Laws of Scotland.

d) Oath of Office for Judges

I, will do right to all manner of people according to the Laws of Scotland, and will deliver a fair hearing to all, without fear or favour.

e) Coronation oath of the King (or Queen) of Scots

I....., do solemnly swear (or affirm) that I will faithfully execute the Highest Office of King (or Queen) of Scots, and I will, in service to the People of Scotland, defend and obey the Constitution and Laws of Scotland.

Explanatory Notes:

1. Poor quality Government: Currently Scotland has too much centralised government - by Brussels, Westminster, Holyrood and Local Authorities, yet there is a marked lack of democratic representation and accountability. The current system was set up for remote centralised control with little or no accountability to the electorate. This has resulted in poorly managed public services and quangoes where there is a significant amount of patronage, cronyism and corruption amongst senior management. In contrast, where the public sector has achieved, this has been attained through the dedication and skills of the front-line professionals in spite of the limitations being imposed by excessive administrative red tape.

Government performance is further degraded by the poor quality management capabilities of the elected representatives at Holyrood and in local government. Few elected representatives have the skills, competence or experience to provide the levels of business oversight required to adequately manage the multi-million industries they have been elected to be responsible for. One detrimental outcome has been the expansion of the consultancy culture which has generated significant abuse and misuse of taxpayers' money. This lack of in-house ability has contributed to the culture of greed and corruption which has resulted in such as the Edinburgh Tram fiasco, the over-engineered Leith Flood prevention, the majority of the £1500 million budget for the Forth Road Bridge going abroad without any offset deals for jobs in Scotland, and other similar situations across the country.

Elected representatives require having the training necessary for them to carry out their duties competently.

2. Devolved Government: To improve democratic representation and accountability and move decision-making closer to the point of need we propose that state authority and responsibilities are shared across three distinct and highly autonomous levels of government.

- a) Parliament,
- b) Regional Assemblies,
- c) Burgh (Community) Councils.

3. Fiscal stability: The use of a full parliamentary term budget will allow more efficient fiscal planning for both private and public sectors. Commercial enterprises in particular will benefit from longer periods between fiscal changes.

4. Constitutional flexibility: To promote flexibility, the Constitution - as the Fundamental Law - performs as the trunk of a treelike structure, with the branches being the enabling Acts of Parliament. The Acts of Parliament should contain the detailed content, which can, when appropriate, be amended to suit the evolving needs of society.

5. Public service contracts: The default position for all public service departments should be to use local companies for public infrastructure and service contracts. All major contracts for such as hospitals, schools, bridges, etc. should be offered for tender as projects or groups of projects of a size which can be competitively tendered for by or through Scottish local or regional based companies.

The lack of commercial or technical ability within some public departments has provided an opportunity for contractual abuse, resulting in corruption and the misuse of public money. All contracts awarded by Regional, City and Burgh Councils with a value of five hundred thousand pounds and over should be made available for public scrutiny on Council websites. All contracts awarded by Councils to be subjected to a national standard of independent auditing.

6. Local Government Devolution: In order for the electorate to feel any ownership of the political system they must see the effects of how they can influence the decision making process. This will occur only if the electorate has the means to influence the system at local level and see the results of their input. It is therefore proposed that the Burgh (Community) Councils be re-instated with clearly defined powers, funds and assets. It is proposed that the thirty-two (32) Local Authorities and their current powers be re-organised and divided between a lesser number of larger Regional Assemblies and the local Burgh (or Community) Councils. All matters of local concern should be evaluated and divided as considered best to achieve fit for purpose outcomes.

Matters to be considered include:

- (i) economic development;
- ii) housing, land use and planning;
- iii) infrastructure (infrastructure classed as strategic is the responsibility of central government).
- v) transport; the upkeep of streets, roads and public spaces;
- vi) public health;
- vii) the control and recycling of waste;

- viii) education and training;
- ix) environmental protection;
- x) libraries, museum, the arts and culture;
- xi) social care and services;
- xii) engaging with police, public safety;
- xiii) parks, garden and allotments;
- xiv) recreational facilities;
- xv) local public revenues;
- xvi) civil defence planning and response;
- xvii) any other matter of local concern.

7. Regional Assembly Members and Burgh (Community) Councillors: Party politics should play no part in local government. Regional and Burgh members should be working for and answerable only to the electorate not remote party bosses. It is therefore proposed that all Regional and Burgh Elected Members should stand as Independents on a non-party ticket. The precedent is already in position as the Community Council Handbook issued to Community Councillors clearly states that all **Councils will act as non-political bodies in the party political sense.**

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