

# **Scottish Democratic Alliance**

## **The Government of Scotland – Riaghaltas na h-Alba**

The Scottish Democratic Alliance (SDA) is preparing notes for a written Constitution. We would welcome your views and comments on the following definitions and proposals for the governance of independent Scotland. Contact: [info@scottishdemocraticalliance.org](mailto:info@scottishdemocraticalliance.org)

The Scottish people have an internationally guaranteed right to political, economic and cultural self-determination. It is their decision, and no one else's, how far they wish to go in the direction of constitutional independence. If they opt for independence, then no authority in the UK or abroad is entitled to deny it to them. The SDA stands for full constitutional independence as the only feasible basis for good governance, but the final decision rests with the people of Scotland.

*Supreme sovereign authority is vested in the People of Scotland and not in the Crown or in Parliament.*

We therefore propose that the fundamental rights of the people and their responsibilities as citizens should be set out in a written constitution. Such a constitution will also set out the structure and responsibilities of the principal organisations of the nation, including Parliament, the Judiciary, Local Government, the Scottish Law Commission, the Scottish Boundary Commission, the Scottish Public Services Ombudsman and Audit Scotland.

We further propose that, initially, Scotland should continue to be a Democratic Constitutional Monarchy and member of the Commonwealth, with the Monarch as a non-executive Head of State.

We believe that the constitution should provide that the people of Scotland shall continue to be governed by an elected parliament, and that the right to vote shall be held and exercised by a qualified and registered electorate.

We propose that to avoid constitutional or controversial decisions being imposed against the will of the people, there should be a referendum system in place, to decide all questions reserved to the people by the constitution.

We propose that the new Independent Parliament will assume the powers currently exercised by the Scottish Parliament in Edinburgh, the UK Parliament in London, and by the EU in Brussels.

We propose that the newly Independent Scotland should apply in its own right for membership of the major international organisations, principally the United Nations (UN), the World Trade Organisation (WTO) and the Organisation for Economic Cooperation and Development (OECD) at global level; and in Europe the European Free Trade Association (EFTA), the European Economic Area (EEA), the Council of Europe (CoE), the United Nations Economic Commission for Europe (UNECE), the Organisation for Security and Cooperation in Europe (OSCE), the North Atlantic Treaty Organisation (NATO) and the Nordic Council.

We do NOT propose that Scotland should apply for membership of the undemocratic European Union (EU), which in its present form is contrary to Scotland's interests. We propose that all laws and regulations, including those deriving from international obligations, will be enacted by the Scottish Parliament in accordance with the written Constitution.

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We seek your views and comments on the structure of the new parliament, having identified the major components which will provide a participative democratic system of government as follows:

- an executive council,
- an elected legislature,
- an accredited system of experienced advisers,
- elected local government councils,
- an appointed law commission,
- a separate Judiciary.

With regard to the structure of the new parliament we offer two options: further options that anyone wishes to propose are not excluded from consultation.

- **Option One.** An upper assembly and a lower assembly. The lower assembly would be elected. Despite the preference of many for an elected upper assembly, we recognise the need for specialist knowledge and experience for drafting and revising legislation initiated by an elected assembly. Suggestions are needed to determine how an elected upper assembly would be guaranteed to produce the range and quality of experience required; and on whether an upper assembly appointed by the elected assembly (not the First or Prime Minister) would be acceptable.
- **Option Two.** A single elected assembly, consisting of an executive council and a legislature, supported by an accredited advisory system, to give advice and assistance to the elected parliament, and outside parliament as at present a separate Judiciary and a Law Commission to review existing legislation but with extended responsibilities to scrutinise and propose amendments to new legislation initiated by the elected assembly.

**Note:** *Further options proposed by anyone who may wish to do so are not excluded from the consultation.*

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**EXAMPLE:** Developing Option Two the following proposals are submitted for consultation and your comments:

**At National level:**

- The Monarch as a non-executive Head of State.
- An Executive Council (Cabinet).
- An elected Legislature, to draft, initiate, scrutinise and review legislation.
- An accredited advisory system to provide data and advice to the elected Parliament.
- A separate Judiciary, incorporating a Supreme Court, etc.
- An appointed Law Commission to review legislation and propose amendments.

#### **At Local level:**

- Elected Shire governments, responsible for providing public services and collecting tax revenues.
- Elected councils within each Burgh.

We propose that the **legislative power** of the Parliament will be shared by the **Legislature** and the **Executive Council (Cabinet)**:

Executive - We propose that the **executive power** of Parliament be vested in the Cabinet, and we also propose that the Ministers and Deputy Ministers including the First Minister, be elected by ballot among the members of the elected Parliament.

To prevent the development of a dictatorial or presidential form of government we propose that the Constitution should make provision for measures to limit the power of the First Minister.

**Legislature** – Our proposals are:

- that the elected members of parliament will draft, initiate and amend legislation.
- that members will be directly elected once every four years under the single transferable vote form of proportional representation;
- that membership will be open to all Scottish citizens who meet qualifications to be defined and who are permanently resident in Scotland;
- that the electorate for national parliamentary elections will consist of all Scottish and, initially, UK citizens over the age of 18 years, permanently resident in Scotland.
- that Citizens of the European Economic Area (EEA) resident in Scotland will be eligible to vote in local elections.

We further propose that the Parliament will initially number some 170 members, nominally on the basis of one member for some 30,000 registered residents, the increase from 129 MSPs to about 170 MPs being required to process the legislative work previously undertaken by the UK and the EU parliaments.

We propose that legislation may be introduced by members of both the executive council (cabinet) and the legislature.

#### **Members of Parliament**

We submit that all members of parliament should be resident in the constituency they represent, that they possess proven competence and experience to carry out their duties on behalf of the constituents and should stand as independent members.

**Candidates for election** as members of parliament should be required to demonstrate competency to carry out the job description as prescribed by local constituency candidate selection committees.

We submit that **all candidates for election** should be resident in the constituency they are to represent. where they are not currently resident, they should by preference have a local interest (family etc.) and be prepared to give an undertaking to move into the constituency if elected.

In order for voters to have confidence in the abilities of their members of parliament, we advocate that consideration be given for elected members to be required to undertake a specified level of training. The level of training to be established by an independent non-partisan Commission.

We propose that pay and expenses, conditions of service and code of practice for MPs will be set by an independent commission.

We propose that MPs should be required either to devote the whole of their time to their parliamentary duties, or within limits to be decided by the Parliament, substantially the whole of their time (so that, for example, they can devote up to one day a week in aggregated time to maintaining a business or professional practice in which they were involved before election).

### **Scottish Boundary Commission**

We propose that a review by a new Scottish Boundary Commission will be required to re-align electoral area boundaries, with the following recommendations;

- the number of local authorities should be reviewed to achieve the most cost-effective system of local administration.
- changes to the existing structure will be by agreement between existing councils, not centrally imposed.

We propose that national electoral areas will consist of multiples of wards, wholly contained within local authority area boundaries to enable the electorate to identify more easily with their respective MP or local Councillor.

We propose that following the new boundary commission review to determine the number of mainland city and regional or shire constituencies, each of the mainland electoral areas would elect between 5 and 9 MPs; the three island electoral areas viz. the Orkney Isles, the Shetland Isles and the Eileanan nan Siar would each elect 2 or 3 representatives.

### **National Advisory Council (NAC)**

We propose that the Cabinet and the Parliament will be supported by an accredited National Advisory Council (NAC) whose members will be available for consultation as set out in the constitution. The nominees for the NAC to be drawn from local government (COSLA), and established business, social, legal, cultural, financial, trade union, religious and economic associations, institutions and professional bodies – in effect a modern reincarnation of Scotland's historic Estates of the Realm.

Our proposal is that the primary function of the NAC will be the provision of a clear and comprehensive picture of the current status, capabilities and requirements of the nation, providing local, national and global perspectives, to the executive and legislative bodies.

We also propose that the Constitution make provision for the NAC to be called upon to assist with the drafting of legislation.

### **Changes to the Constitution**

We propose the Scottish Constitution should provide for a mandatory referendum to authorise any change to the Constitution.

We propose that the Constitution will provide that the executive authority of the Government is subject to limitations. In particular:

- the government may not declare war or participate in armed conflict without the consent of the Parliament, save that in the event of invasion or other national emergency the government may take whatever steps are necessary for the protection of the state.

- the Government must act in accordance with the Constitution.
- all treaties must be ratified by the Monarch.

### **Referendum**

We offer that there will be provision for a mandatory referendum to authorise any proposed change to the Scottish Constitution or Bill of rights; otherwise a referendum may be used to obtain the people's answer to a question of national importance if the Parliament or a sufficient number, to be defined in the Constitution, of the registered electorate so decide.

### **Accountability**

We propose that as the people of Scotland are sovereign, and as the government is therefore accountable to the people, there must be a statutory mechanism to enable the people to have a direct input into the legislative and political system.

The following initiatives, based on successful use in Switzerland are proposed to enable the people to participate in the political decision-making process:

- the people can initiate legislative processes, public enquiries and hearings regarding the actions of public bodies and their senior management. For this to be valid 50,000 signatures of registered voters must be collected within a six month time period.
- the people can dissolve Parliament. For this to be valid a yet to be agreed number of signatures of registered voters must be collected within a three month period.
- members of Parliament can be removed from office. For this to be valid the signatures of a yet to be agreed proportion of the registered residents of the represented electoral constituency must be collected within a three month period.
- Shire commissioners can be removed from office. For this to be valid the signatures of a yet to be agreed proportion of the registered residents of the represented ward must be collected within a three month period.

**We further propose that the Scottish Public Services Ombudsman continues to deal with complaints about organisations providing public services in Scotland, and that Audit Scotland continues to provide the services to check that Public Money is spent properly, efficiently and effectively.**

**We further propose that the Accounts section of Audit Scotland institute a standardised system of preparation and presentation of accounts for all organisations providing public services in Scotland.**

### **Training**

After Independence there will no longer be a need to employ the army of administrators who are currently required to process the deluge of regulations (some are beneficial; many are detrimental to our economy) from the EU in Brussels and the UK government in London. There will also be the added bonus that we will retain and use in Scotland the hundreds of millions of pounds that we currently contribute to pay for the multitude of bureaucrats in Brussels and London.

The SDA submit that following Independence there will be a need to redeploy and retrain a significant proportion of the public sector administration staff to process the implementation of the new Scottish legislation. Increased autonomy for local government will also involve considerable redeployment and retraining of staff. A nationwide training programme will be required; one which

will incorporate and encourage the implementation of “best practice” working and a more proactive “can do” mind set.

### **Information Service**

We propose that a new National Statistical and Information Service should be created to provide the public with key information free of any political influence.

### **Commission to Review the Public Sector**

**There is a need for an independent initiative to review the public sector, such as a Commission on modernising the Public Sector. This could, under the auspices of a respected institution, look at what we do with the state on a number of levels.**

**This would address the growing crisis of public spending and how we deal intelligently with cuts, examine the wider culture and attitudes, and finally, have as part of its remit a mandate to look at the problems and practices of the welfare state and make suggestions as to how we progressively eliminate the current weaknesses and abuses.**

### **Local government**

We propose that the Constitution will empower local authorities to exercise executive power to direct the management and provision of local services.

We propose that local government should have more autonomy than at present, in the exercising of their powers, which will continue to include tax-raising and money borrowing powers.

We propose that the function of local government should be to cost-effectively direct the operation of all local services, in order to achieve nationally set standards; the council should have a statutory duty for the collection of all tax revenues, dues and legal fines, and a statutory duty to pass an agreed proportion to the Scottish treasury.

We propose that there should be two levels of local government and representation, structured as follows:

- each local authority will continue to be divided into wards, represented by elected **Councillors**.
- the local executive power will be exercised by a **Council**, comprising councillors elected for a four year term of office, under the single transferable voting system.
- one of the councillors to be elected to the position of Provost, by a free vote of the council members.
- candidates offering themselves for election as councillors should provide proof of competence and make known details of any political party membership they may have, but regardless of any party affiliation, should only stand as an Independent, free to vote as conscience dictates.

We propose that local communities should continue to be represented by:

- the current system of ward community councils, candidates for which may not stand on a party political ticket.
- the functional authority of the wards will continue to be exercised by a community council of volunteers (**Community Councillors**), elected for a period of three years.
- the community councils, as at present, should continue to be consulted by the local council on issues reflecting the interests of the local people.

We propose that multifunction information offices (or resource centres) should be established in each local authority area. These would provide the community with a place where they can access information and advice, allowing them to navigate their way through the entire range of government legislation; such as taxation, grants and social assistance.

### **Elections**

We propose that:

- Local council elections shall be held every four years, to be scheduled midway between the four yearly national elections for MSPs.
- elections will be held, as at present, every three years for community councillors.
- the mechanisms for voting to include greater use of secure electronic voting, with facilities for proxy voting and for those who do not have access to or wish to use electronic systems.

### **Judiciary**

We propose that the Scottish legal system should be reviewed in order to ensure that it meets the needs of Scotland as an Independent state.

### **Scottish Law Commission**

We propose that the Scottish Law Commission should continue as at present to review existing legislation but should have new extended responsibilities to scrutinise and propose amendments to new legislation initiated by the elected assembly. This system is used successfully in Eire.

*“It is in truth not for glory, nor riches, nor honours that we are fighting, but for freedom – for that alone, which no honest man gives up but with life itself.”*

Extract from the Declaration of Arbroath, 1230.

**Why not send us your comments? Even if you do not agree with everything that we currently propose, you are welcome to join us and work from within the SDA to develop an agenda for an Independent Scotland.**

**Contact telephone Numbers: Mobile 0783 801 5992 and Office 01467 641255**

**Revised 18-10-2011**