



Scots Language Centre

## Crack About Politics



### Document 12

*The Embra Greement  
2012*

### **Historic Background**

In 1603 King James VI of Scotland also inherited the thrones of England (with the Principality of Wales) and Ireland to become the first monarch to rule the whole British Isles. James adopted the personal style of king of Great Britain – meaning ruler of the whole island – but no such state yet existed. His attempts at political union between England and Scotland failed and his successors tried to reconcile the rival interests of the two kingdoms. In the late 17<sup>th</sup> century the Scottish Parliament began to assert itself more forcefully, complaining of the hurt done to Scottish interests by the monarch's English policies. Then the English parliament passed an act for regulating the royal succession, without consulting the parliament of Scotland, and so the Scots passed their own act. With the queen at war with France, and Scotland annoyed over a number of issues, the English feared that Scotland might be used by the French, and so English ministers pressed for a political union between the two countries. The ways in which this was achieved, by bribery, bullying, promises of economic benefits, and threats of war, have remained controversial. A majority of members in the Scottish parliament ratified the Treaty of Union in 1707 – amidst popular protest. In theory England and Scotland were joined in an equal partnership known as the United Kingdom of Great Britain, but in reality little changed for England while Scotland gave up much and was changed forever.

### **Background to Devolution**

By the end of the 19<sup>th</sup> century home-rule or devolution – the re-establishment of a Scottish Parliament – appeared as an answer to Scottish domestic issues. But Scottish home-rule was dependent on UK parties delivering this within a British parliament and the matter was often put on the 'back burner'. Then in 1934 the Scottish National Party (SNP) was formed. The growth of support for this party in the 1960's and 1970's fuelled calls for home-rule or outright independence. Although a majority of Scottish citizens voted for home-rule in a referendum held in 1979, it fell short of a requirement that 40% of the electorate had to vote yes. Eventually, however, a new referendum was held in 1997 and 73% voted in favour of the Scottish Parliament being re-established, which took place in 1999.

### **Current Background**

In 2007 the SNP was voted into power as a minority government, but was returned in 2011 with a majority (69 out of 129 seats) and a manifesto pledge to hold a referendum on Scottish independence. Already between 2007 and 2009 the SNP Government had conducted a 'National Conversation' inviting public comment on options for constitutional change. The debate intensified in 2011 and 2012 when the legal right of the Scottish Government to hold a referendum was questioned with the UK Government insisting this would require legislation by the UK parliament. In addition, the proposed wording of a referendum question was hotly debated. Meanwhile the Scottish Government held a public consultation between January and May 2012 which received 26,000 responses. A bill for holding a referendum passed through the UK Parliament and was agreed by the Scottish Parliament on 18 April 2012. It became law on 1 May 2012 as the Scotland Act 2012. On 15 October 2012 First Minister of Scotland Alex Salmond and UK Prime Minister David Cameron met at St Andrew's House, Edinburgh, and formally agreed the legal framework for the referendum. On 30 January 2013 the question was agreed when the Scottish Government accepted the recommendation of the Electoral Commission that the wording of the referendum should be:

“Should Scotland be an independent country? Yes/No.”

The Scottish Government published a White Paper on 26 November 2013, detailing its blueprint for an independent Scotland, should Scotland vote yes, and should the electorate return the SNP to power in the 2016 election. The referendum was held on Thursday 18 September 2014 with 55% voting against independence and 45% in favour.

The document which now follows is a translation into Scots by Dr Dauvit Horsbroch of the text of the Edinburgh Agreement which was agreed by Alex Salmond and David Cameron on 15 October 2012. It sets forward an agreed body of rules for the legal governance of the referendum campaign, making reference to existing legislation, and the ways in which both sides should seek to conduct themselves generally.



# **GREEMENT**

atween the Unitit Kinrik Government an the  
Scots Government anent a referendum for a  
freestaunin Scotland

Embura, 15 October 2012



Set ower in Scots bi Dauvit Horsbroch

## GREEMENT

atween the Unitit Kinrik Government an the  
Scots Government anent a referendum for a freestaunin Scotland

The Unitit Kinrik Government an the Scots Government haes baith gree'd tae wirk thegither an see that a referendum for a freestaunin Scotland can gae ahead. The governments haes baith gree'd that the referendum shuid:

- be weel-grundit legally
- gae ben the Scots Pairlament as an act
- be conductit sic a gait as awbody amang the pairlaments, governments an fowk can lippen on it; an
- gie fair proof an voice tae the opeenions o fowk in Scotland wi an affcome that awbody will respect.

The governments haes gree'd tae airt throu baith the Unitit Kinrik an Scots governments an Order in Coouncil unner Sheed 30 o the 1998 Act anent Scotland that allous a referendum wi ae question aboot a freestaunin Scotland tae be held afore the end o 2014. The Order will pit ayont ony doot the Scots Pairlament's can tae mak an act for haudin a referendum.

Syne it will be for the Scots Government tae pit ben the Scots Pairlament an act anent a freestaunin Scotland. The twa governments haes gree'd that the referendum shuid ettle efter naething but the heichest, fairest staundarts that's weel-seen til awbody, informed wi speirin at thaim that kens aboot sic maiters. The act for tae haud a referendum will set oot:

- the date o the referendum
- whit fowk can vote
- the wording o the speir
- rules an siller for campaigns; an
- the lave o the rules for haudin the referendum

The parteeclars o the greement atween the governments haes been set oot in the jotting an draft order efter follaein, that maks up a pairt o this greement.

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**The Richt Hon. David Cameron MP**  
Prime Meenister

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**The Richt Hon. Alex Salmond MSP**  
First Meenister for Scotland

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**The Richt Hon. Michael Moore MP**  
Secretar o State for Scotland

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**The Richt Hon. Nicola Sturgeon MSP**  
Depute First Meenister for Scotland

Embura, 15 October 2012

## **ANENT THE TERMS O THE GREEMENT**

### *Reason for Jotting about the Terms*

1. This bit jotting sets oot the heids o the greement that wants proveesion enactit gauin bi the Order (“the Order”)<sup>1</sup> in sheed 30, that’s draft text is eikit tae this jotting, an the maiters that’s been gree’d atween the governments that needsna ony new acts.

### *Rules*

2. Baith the governments grees that the rules that referendums held unner Acts o the UK Pairlament is grundit on – that ettles at fairness – shuid haud guid in the referendum for a freestaunin Scotland anaw. Pairt 7 o the 2000 Act anent Political Pairties, Elections an Referendums (PPERA), sees that referendums can be brocht in throu Acts o Pairlament, comprehendin rules about siller for campaigns, the wey that referendums is run, owersicht an conduct.<sup>2</sup>

3. Baith the governments grees that the referendum rules shuid be grundit on PPERA, but takkin tent in the Referendum Bill o maiters parteeclar tae Scotland sic as the establishment o the Buird anent Electoral Guidance an syne the job o the Commission anent Elections.

### *Timing*

4. The Order gies the Scots Pairlament the can for tae pit throu an act that a referendum can be held at ony time afore the end o 2014. The date o the poll will be for the Scots Pairlament tae decide an will be set oot in the Referendum Bill that the Scots Government’s tae pit forrit. The Order caws for the poll for this referendum tae be held on a day that the’r nae ither poll tae be held throu ony act o the Scots Pairlament.

### *Question*

5. Baith governments grees that the referendum question maun be fair, easy tae unnerstaun an will mak for an affcome that awbody can lippen on an accept.

6. The Order gies the Scots Pairlament the can tae pit throu an act for a referendum wi ae question aboot Scotland staunin free. The wording o the question will be for the Scots Pairlament tae decide an will be set furth in the Referendum Bill tae be pit forrit wi the Scots Government, subject tae the

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<sup>1</sup> An Order made unner sheed 30 (2) o the 1998 Act anent Scotland allous chenges tae be made tae Schedule 5 o the 1998 Act anent Scotland, that sets oot whit maiters is hained tae the UK Pairlament, bi either eikin tae or takkin awa fae whit’s hained.

<sup>2</sup> Pairt 7 o PPERA haes intil’t fower chapters settin oot hoo referendums is tae be held unner an Act o the UK Pairlament: I – Preliminar; II – Owerance o spennin; III – Owerance o leetratur; an IV – Hoo referendums is led.

Commission anent Elections takkin hits swatch o't, as set oot in the paragraphs that follaes.

**7.** For referendums brocht about wi an Act o the UK Pairlament, sheed 104 o PPERA caws for the Commission anent Elections tae tak a swatch o the question that's proponed, alang wi ony statement that comes afore the question, an for the Commission tae gie its opeenion tae the UK Pairlament as tae hoo like fowk is tae unnerstaun the question. Sheed 10 o PPERA allous anaw that the Commission anent Elections can gie advice or supply tae the Scots Pairlament an Scots Government.

**8.** Conform wi the proveesions in PPERA, the Scots Government will refer the referendum question that's proponed, alang wi ony statement that comes afore hit, tae the Commission anent Elections that'll judge whither the question is patent. For ordnar, intresstit pairties will can gie thair opeenions about the wording tae the Commission anent Elections while it is in hauns wi the wark. The Commission anent Elections will report on the question an this report will be pit afore the Scots Pairlament. In turn the Scots Pairlament will gie hits answer tae the report, giein its opeenion on whitever the Commission anent Elections micht commend.

#### *Whit Fowk Can Vote*

**9.** The Referendum Bill pit forrit wi the Scots Government will spell oot whit fowk can vote. Baith governments grees that awbody that can vote for the Scots Pairlament an cooncil elections shuid get tae vote in the referendum.<sup>3</sup>

**10.** Forby ither maiters, the Scots Government's ain public-speir on the referendum pit forrit a caw for 16 an 17 year-aulds tae be comprehendit amang thaim that gets tae vote in the referendum. It will be for the Scots Government tae decide whither or no younger fowk shuid vote in this referendum an hoo tae gae about it. It will be for the Scots Pairlament tae approve whit fowk gets tae vote in the referendum, the same as ony ither referendum unner hame-rule.

**11.** Whit the Scots Government decides tae pit afore the Scots Pairlament will be informed fae the answers it haed til its public-speir on the referendum an bi whit's prestable. The Order daesna astrict whit fowk gets tae vote in the case o this referendum.

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<sup>3</sup> The vote for the Scots Pairlament allous Breetish, Earse, qualified Commonwealth ceetizens an European Union ceetizens that bides in Scotland tae vote forby.

*Whit the Commission anent Elections an the Buid anent Electoral Guidance daes*

**12.** Baith the governments grees that it's important the referendum is owerseen wi bodies that's no seen as takkin ony ane's pairt an that baith sides in the campaign can lippen on. The Commission anent Elections haes the burden for owerseein referendums held unner PPERA. PPERA gies the Commission the say ower:

- makkin comment on the wording o the referendum question;
- inrowment o campaigners;
- statin whit organisations is the leaders-aff in the campaign;
- owerance o campaign spennin an gifts;
- giein grants tae the leaders-aff in the campaign;
- settin furth guidance for thaim that's alloued tae tak pairt;
- reportin hoo the referendum is haunled
- the wey that the poll is run; an
- lattin fowk ken the affcome;

**13.** The Commission anent Elections wis gien the burden forby, for makkin the public ware o the vote in the 2011 Welsh an UK referendums.

**14.** Baith the governments grees that the Commission anent Elections shuid cairry oot the abuin wark for the referendum on Scotland staunin free, but for the wey that the poll is run an annooncin the affcome, an giein oot grants (the Scots Government propones the'll be nae grants o public siller tae the leader-aff organisations). In haein owerance o the campaign an spennin, the Commission anent Elections will report tae the Scots Pairlament.

**15.** The Scots Government propones that the wey the poll is run, an annooncin the affcome, shuid mirra the wey that cooncil an pairlament elections in Scotland is for ordnar haunled, co-airtit wi the Buid anent Electoral Guidance. The poll an the coont will gae the same gait as thae elections, guidit wi the ordnar retouring officers (cryed "coonting officers" for the referendum) an airtit wi a Heid Coonting Officer (HCO). The Scots Government propones that the Heid Coonting Officer shuid be the Convener o the Buid anent Electoral Guidance.

*Owerance o the Referendum Campaign*

**16.** Baith the governments grees that it's important tae mak shair that the referendum campaign is owerseen in sic a wey that it is fair an that baith sides in the crack can lippen on it. The Referendum Bill tae be pit ben the Scots Pairlament wi the Scots Government will comprehend measures for the referendum rules. The governments grees that the rules o the campaign for the



referendum for staunin free shuid be grundit on thaim that's set oot in Pairt 7 o PPERA.

**17.** The Order haes intil't parteeclear proveesion applyin twa-three o the PPERA rules til a referendum for staunin free whaur the Scots Pairlament wadna be habile tae mak sic proveesion. Thir proveesions is sib tae referendum campaign braidcasts an the sennin o mailoots free o chairge.

*Referendum campaign braidcasts*

**18.** PPERA allous that nane but referendum campaign braidcasts made bi or on behauf o offeecial campaign organisations can be braidcast. The 2003 Act anent Communications caws for Ofcom tae astrict braidcasters wi license condeetions that gars them tak tent o rules set bi Ofcom sib tae referendum campaign braidcasts.

**19.** The greement atween the Secretar o State for Culture, Media an Sport an the BBC threaps that the BBC maun pit oot referendum campaign braidcasts an allous that it is for the BBC Trust tae decide the grunds for whan they are braidcast. Baith Ofcom an the BBC maun tak tent tae the opeenions o the Commission anent Elections whan it comes tae makkin proveesion for referendum campaign braidcasts. In baith the 2003 Act anent Communications an the greement wi the BBC "referendum campaign braidcast" haes the same meaning as in PPERA.

**20.** The Order allous for the proveesions in PPERA sib tae referendum campaign braidcasts tae be applied til a referendum for staunin free. This will mean that Ofcom, the BBC an the Commission anent Elections will play the same pairt sib til a referendum for staunin free as thay wad in a PPERA referendum.

*Makkin shair that braidcasters taks nae sides*

**21.** The governments grees that it will be important tae mak shair that braidcasts about the Referendum takes nae sides. Braidcasters, Ofcom an the Commisssion anent Elections will caw the crack about hoo best tae win at this.

*Free o chairge mailoot*

**22.** PPERA allous an offeecial campaign organisation tae send ane mailoot free o chairge til ilka elector or hoose. This is a service gien bi the Real Mail an fundit bi the UK Pairlament throu the Consolidatit Fund.

**23.** The Order allous that this proveesion o PPERA micht be applied til a referendum for staunin free. This will lat the offeecial campaign organisations

pit ae mailoot free o chairge til ilka elector or hoose an for the Real Mail tae caw back the cost fae the Scots budget (the “Scots Consolidatit Fund”).

### *Campaign Siller*

**24.** Baith the governments awns that siller will be an important maiter for thaim that’s campaignin in the referendum, for the Commission anent Elections in owerseein the referendum, an for the fowk o Scotland. It is important for ilka ane o the abuin that the rules is fair an awbody gets a shot.

**25.** The Referendum Bill tae be pit forrit wi the Scots Government will spell oot the leemits on spennin in the time gien ower tae the referendum campaign. Baith governments grees that the rules an staundarts fund in PPERA is the anes tae follae for settin the leemits.

**26.** PPERA sets oot spennin leemits for referendums held the braid UK an the gait that the Secretar o State shuid tak wi enactin rules tae set leemits for referendums held in ony airts o the UK. In settin sic leemits, the Secretar o State maun speir at the Commission anent Elections an tak tent o its opeenions. While the’r nae law that says the UK Government maun accept the threaps o the Commission, nanetheless it conseeders the opeenion o the Commission gey important an tae date haes aye fund the opeenion o the Commission anent Elections wicelike whan settin leemits for referendums bi gait o PPERA grund rules. Gin the Secretar o State acceptsna the opeenion o the Commission on the richt leemits, he or she is band bi law tae mak a statement afore baith the Hooses o Pairlament tellin them whit wey he or she didna gae wi whit wis recommendit.

**27.** The Scots Government propones that the time gien tae the referendum for staunin free shuid be astrictit tae the 16 weeks that ends on the date o the referendum. In settin the spennin leemits for the time astrictit tae the referendum for staunin free, the Scots Government will bore at the answers til its public-speir, haud a crack wi baith sides o the campaign (mind, neither o them existit at the time the Scots Government held its public-speir) an tak tent o the opeenion held bi the Commission anent Elections. Syne the Scots Government will set oot its ettles, an the evidence that thay’r grundit on, afore the Referendum Bill is conseedert bi the Scots Pairlament. The memmers o the Scots Pairlament will hae sicht o the Referendum Bill, the ettles at spennin leemits comprehendit, throu the ordnar procedures. The Bill, like ony ither Bill in the Scots Pairlament will, aince pit forrit, gae alang wi a Policy Jotting. The Policy Jotting will set oot the parteelars o the process for speirin aboot settin spennin leemits an speak o ither possible gaits for takkin in haun ony o the maiters conseedert. This will comprehend a statement o reasons gin the’r ony

change fae the spennin leemits recommendit bi the Commission anent Elections.

**28.** Gifts o siller tae registert political pairties is awready subject til astrictions estaiblisht in Pairt 4 o PPERA. Sae the'r nae need tae mak up anither set o rules that astricts gifts for registert pairties jist for the ettles o the referendum. Political pairties winna be alane in wantin tae campaign for a parteeclar affcome tae the referendum. The Referendum Bill tae be pit forrit wi the Scots Government will deal wi the haunlin o gifts tae pairt-takars that isna registert pairties or is jist wee sma political pairties. As unner PPERA, pairt-takars winna get acceptin gifts fae some unnamed fowk or a when gifts fae bodies or organisations fae furth the UK.

#### *The daeings o Government throu the 28 days afore the referendum*

**29.** It is acceptit that the'r a time afore elections in the UK whan meenisters an ither public bodies evites settin furth material that wad hae a bearin on the election. Sheed 125 o PPERA sets oot the astrictions that applies tae Meenisters an public bodies in the 28 days afore ony referendum held unner the Act. Baith the governments awns the importance o giein respect tae thon 28-day windae, in the same way that baith governments awready respects the same windae o time in ane anither's pairlament elections. The Scots Government will set oot the parteeclars o astrictit behaviour for Scots Meenisters an public bodies unner hame rule in the Referendum Bill tae be pit forrit in the Scots Pairlament. Thir parteeclars will be grundit on the astrictions set oot in PPERA. The UK Government haes committit itsel tae act throu the 28-day windae conform the same rules grundit on PPERA.

#### *Wirkin Thegither*

**30.** The Unitit Kinrik an Scots Governments is committit, throu the Greement o Unnerstaunin atween thaim an ither,<sup>4</sup> tae wirk thegither on maiters o the self an same intress an adhere tae freenly traffeck an respect. The twa governments haes won at this greement in thon speerit. Thay look forrit til a referendum that is lawfae an fair wi an affcome that's pyntit an respectit. The twa governments is committit tae haud-gauin douce an wicelike, whatever the affcome micht be, in the best intress o the fowk o Scotland an the lave o the Unitit Kinrik.

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<sup>4</sup> *Greement o Unnerstaunin an Eiks atween the Unitit Kinrik Government, the Scots Meenisters, the Welsh Meenisters, an the Executive Comatee o Norlan Irland, as updatit in September 2012.*