

# CONSTITUTION OF THE REPUBLIC OF SCOTLAND

## *I. Preliminaries*

- (1) Scotland is a free, sovereign, independent state. Its form of government is a co-operative democratic Republic based upon solidary, subsidiarity and social-justice.
- (2) The Republic incorporates the whole territory of Scotland, including its islands and its territorial waters. The territory of the Republic shall be divided by law into a number of burghs and counties for purposes of administration and local government.
- (3) The legislative power of the Republic shall be vested in the President of the Republic and the Parliament. The executive power shall be vested in the Council of Ministers. The judicial power shall be vested in the independent courts and tribunals.
- (4) This Constitution is the supreme law of the land. All laws, treaties, regulations or ordinances, which are incompatible with this Constitution, are deemed null and void.

## *II. The President*

- (5) The President is the supreme magistrate of the Republic. He maintains the proper functioning of the public authorities, defends the unity and integrity of the Republic, and is responsible for upholding its laws and liberties according to this Constitution.
- (6) The President shall be elected by the Parliament. Whenever an election is due to take place, a nominating committee consisting of twelve Representatives and twelve Senators shall be chosen by lot. These twenty-four nominators shall, by a two-thirds majority vote, nominate a candidate for President. If that candidate is approved by an absolute majority vote of Parliament, by secret ballot, he or she shall be deemed duly elected; if not so approved, new nominators shall be chosen by lot, and shall nominate two candidates, from which Parliament shall elect the President by a simple majority.
- (7) The President serves for a term of four years; a presidential election shall take place during the last sixty days of the incumbent's term of office. An incumbent or former President may be re-elected, but no person may serve for more than two terms.
- (8) The President may resign by submitting his resignation to Parliament. The President may also be removed from office, for incapacity, neglect of duty, or misconduct, by a vote of censure passed by a two-thirds majority of Parliament.
- (9) In event of the death, resignation or removal of the President, the Presiding Officer of Parliament shall within fourteen days convoke Parliament to elect a new President, who shall serve for the remainder of the former President's term of office.
- (10) During the interval between the death, resignation or removal of a President, and the election of a successor, the Presiding Officer shall serve as supreme magistrate.
- (11) The President, on assuming office, shall take an oath, in the presence of the members of Parliament, to discharge his duties for the good of the people and with diligence and integrity, and to protect, uphold and obey the Constitution and the laws.

(12) The President takes the honorific of ‘Excellency’. He shall reside in Holyrood Palace whilst in office, and he shall receive a ‘civil list’ payment according to law.

(13) The President shall preside over public ceremonies and civic festivals, shall confer honours in the name of the Republic, and shall patronise the arts, charitable organisations, schools and learned societies on behalf of the Republic and its people.

### *III. Legislation*

(14) Laws may be proposed by the Council of Ministers, by members of Parliament, or by means of a public petition; provided, that laws which impose taxes or duties, appropriate funds, or authorise loans, must be proposed by a responsible Minister.

(15) Every proposed law shall be freely discussed by Parliament, in plenary session and in committees, and shall be passed only if approved by an absolute majority vote.

(16) The President sanctions and promulgates the laws. Nevertheless, if the President refuses to sanction and promulgate a law that has been duly passed by Parliament, or fails to sanction and promulgate any such law within ninety days, then Parliament, acting on its own authority, may sanction and promulgate the law (with or without such amendments, if any, as the President may suggest) by a two-thirds majority.

### *IV. Parliament*

(17) The Parliament is a unicameral body consisting of four hundred members: three hundred Representatives chosen by random lot and one hundred nominated Senators.

(18) The Representatives shall be selected by random lot in the following manner:

(a) The enfranchised citizens of each parish shall meet annually on the first of May (which shall be a public holiday) and, at noon, shall proceed to nominate, from amongst those qualified, candidates for selection as Representatives; and any qualified citizen who receives at least ten nominations shall be a candidate.

(b) The names of all nominated candidates shall be recorded by the returning officer, sealed, and delivered to the Presiding Officer of Parliament. On the 1<sup>st</sup> day of June of each year, the Presiding Officer shall cause lots to be randomly drawn, to select the required number of members of Parliament from the lists of nominated candidates. Those selected shall take office on the 1<sup>st</sup> day of August.

(19) In order to participate in the nomination of members of Parliament, it is necessary to be citizen of the Republic, at least eighteen years of age, and a rate-paying householder or resident of the parish for at least one year; provided, however, that no person serving a custodial sentence for a serious criminal offence, who or is under guardianship on grounds of mental incapacity, may participate in nominations.

(20) All those who are enfranchised in accordance with the preceding Article shall be qualified to be nominated as a parliamentary candidate, except for those who hold an incompatible executive, judicial, military or diplomatic office as prescribed by law.

(21) Representatives shall serve for a term of two years, with one-half of their number being chosen annually. No person may be chosen as a Representative for two terms in succession.

(22) The Senators shall be appointed by the President from a triple list of candidates nominated by the Council of Ministers. They shall be appointed from amongst the citizens of the Republic, being at least forty years of age, who have distinguished themselves in service to the Republic in political, administrative, judicial, diplomatic or military office, or have held office a Rector of a University, or who have otherwise contributed to the well-being of the Republic in jurisprudence, academia, the arts, sciences, or technology, and who are valued for their merit, wisdom and integrity.

(23) Senators shall be appointed for life, or until voluntary retirement, unless removed for misconduct, incapacity or negligence by a two-thirds majority vote of Parliament.

(24) Casual vacancies arising in Parliament following the death or resignation of a Representative, or death, resignation or removal of a Senator, shall be filled within thirty days by drawing a member by lot from the current pool of candidates, in the case of Representatives, or by making a new appointment in the case of Senators.

(25) On ceremonial occasions the President may preside over Parliament; on all other occasions, a Presiding Officer, elected by Parliament from amongst its members, shall be chosen to preside.

(26) Parliament adopts its own internal rules by a two-thirds majority vote. It decides its own sessions, adjournments and order of business: provided, that it may be called into session at any time, by the President or Council of Ministers, for urgent business.

(27) The sittings of Parliament are public; it may, by a two-thirds majority, resolve itself into a closed session for discussion of matters of military or diplomatic secrecy.

(28) The Parliament may appoint committees from amongst its members, with authority to prepare business, to conduct investigations into matters of policy or administration, and public hearings, and to scrutinise Ministers and other officials.

(29) Members of Parliament shall enjoy freedom of speech and of voting, subject only to Parliament's own rules of procedure; and they shall have immunity from all suit or prosecution arising from speeches made or votes cast in Parliament or its committees.

(30) No bodily constraint can be exercised against a member of Parliament, and no member of Parliament can be prosecuted or arrested on any criminal charge, except with the consent of Parliament.

(31) The Representatives shall be paid a reasonable allowance for their services, as prescribed by law. Representatives and Senators shall be compensated for reasonable out-of-pocket expenses legitimately incurred in the performance of their public duties.

(32) There shall be a register of members' interests: any member of Parliament having a personal or financial interest in a matter under discussion must declare it, and may not vote in the resolution of that matter.

### *V. The Council of Ministers*

- (33) The Council of Ministers shall consist of the Ministers responsible for the conduct of the administrative departments of the Republic established by law.
- (34) The Council of Ministers shall be under the presidency of a Prime Minister.
- (35) The Prime Minister shall be elected by Parliament. In order to be elected it is necessary to be a member or former member of Parliament, and nominated by at least twenty members of Parliament. The candidate who receives an absolute majority of the votes cast shall be elected: provided, that if after three ballots no candidate has received an absolute majority, a simple majority shall suffice for the final ballot.
- (36) The election of a Prime Minister shall take place within thirty days after each annual partial renewal of Representatives, and within thirty days of the resignation, death, or removal, of the former Prime Minister.
- (37) No person may be elected as Prime Minister for more than four annual terms of office in succession, nor for more than eight annual terms of office in their lifetime.
- (38) Other Ministers shall be nominated and dismissed by the Prime Minister. They shall be chosen only from amongst the members and former members of Parliament.
- (39) The total number of Ministers, and their duties, shall be prescribed by law.
- (40) The Prime Minister and other Ministers shall be individually and collectively responsible to Parliament for their public acts. If Parliament, by a two-thirds majority, passes a vote of no-confidence in the Prime Minister, the whole Council of Ministers shall resign, although the Ministers shall continue to perform their duties until their successors are appointed; if Parliament passes a vote of no-confidence in a named Minister, the Minister shall resign and the Prime Minister shall nominate another.
- (41) The Council of Ministers commands the armed forces and conducts relations with other States in the name of the Republic; but no war may be declared, nor any treaty binding on the Republic ratified, except with the prior consent of Parliament.
- (42) The Council of Ministers appoints to all places of public administration according to law, and issues the regulations and ordinances necessary for the execution of the laws.
- (43) Ministers and all other public officials remain at all times legally responsible for their actions, and may be prosecuted under the criminal law for misconduct in office.
- (44) All public officers subordinate to the Ministers shall be organized according to law as a permanent and professional Civil Service, the members of which shall be selected and promoted according to merit, and shall enjoy security of tenure during good behaviour. An independent Public Service Commission, established by law, shall be responsible for the selection, promotion and discipline of Civil Servants.

## *VI. Judiciary*

(45) Justice is administered by the Supreme Court and by the other regular courts and tribunals established by law. The organisation and hierarchy of the judiciary shall be determined by law. There can be no prerogative courts or special criminal tribunals.

(46) The judges of the Supreme Court shall be appointed by the President from a triple list of nominees proposed by Parliament's judicial committee; all other judges shall be appointed by the President from a triple list nominated by the Supreme Court.

(47) All judges must be citizens, at least thirty years of age, of good character, and learned in the laws. Judicial office is incompatible with all other public offices. The salaries of judges shall be fixed by law, but not reduced during their terms of office.

(48) Judges serve for life, or until retirement at the age of seventy. They may not be removed, except by a resolution of Parliament, passed by a two-thirds majority, on the proposal of an investigatory panel appointed by Parliament's judicial committee, on grounds of incapacity, gross misconduct, neglect of duty, or other similar cause.

(49) The Supreme Court is the final court of appeal for all causes and controversies, civil and criminal. It shall also have jurisdiction over all cases concerning the rights guaranteed by this Constitution, the interpretation of this Constitution, or the validity of any law, treaty, order, regulation or other act under the terms of this Constitution.

(50) The President has the right of pardon, and that of commuting penalties.

## *VII. Referendums and Plebiscites*

(51) The people, by means of a petition addressed to the President, and signed by at least 5% of the enfranchised citizens, may demand an abrogative referendum on any law, other than a money law, which has been enacted within the period of two years prior to presentation of the petition. If such a petition is submitted, and found to be in order, a referendum on the law shall be held within three months from the date of the presentation of the petition (the date shall be determined, within this limit, by the President, and two or more referendums may be held on the same day). If a majority of those voting in the referendum support the repeal of the law, and if these amount to at least 40% of those eligible to vote, the law shall thereby be repealed; otherwise, the law remains in force. A law that has been abrogated may not be re-enacted within four years, even in an amended form, except by a two-thirds majority of Parliament.

(52) The Council of Ministers, with the consent of Parliament, may also invite the people to express their opinion, by way of a plebiscite, on any given question of legislation or policy that is presented for their consideration. Such plebiscites shall have an advisory and consultative status only, and they shall not be legally binding.

## *VII. Local Authorities*

(53) Each county and burgh shall be governed by a county or burgh Council, which shall consist of twenty-four Councillors and twelve Aldermen.

(54) The Councillors shall be selected by random lot in the following manner:

(a) The enfranchised citizens of each parish shall meet annually on the 1<sup>st</sup> day of June (which shall be a public holiday) and, at noon, shall proceed to nominate, from amongst those qualified, candidates for selection as Councillors; and any qualified citizen who receives at least ten nominations shall be a candidate.

(b) The names of all nominated candidates shall be recorded by the returning officer, sealed, and delivered to the Provost of the burgh or Lord Lieutenant of the County. On the 1<sup>st</sup> day of July, the Provost or Lord Lieutenant shall cause lots to be randomly drawn, to select the required number of Councillors from the lists of nominated candidates. Those selected shall assume office on the 1<sup>st</sup> day of August.

(55) The Aldermen shall be elected by on a vocational basis, in the manner prescribed by law, from amongst trades unions, craft and artisan guilds, chambers of commerce, governing bodies of learned professions, religious societies, and other functional and vocational bodies in the county or burgh.

(56) Councillors shall serve for a term of two years, with one-half of their number being chosen annually. Aldermen serve for renewable terms of six years, with one-third being chosen every second year.

(57) Each county and burgh Council shall annually elect one of its members (styled 'Lord Lieutenant' in counties, Provost in burghs, and Lord Provost in burghs having city status) from amongst its members, to preside over the Council and to ensure the preparation and execution of its business.

(58) Each county and burgh Council shall, in the manner prescribed by law, appoint a Clerk, Treasurer, and such other principal administrative officers as may be required.

(59) The meetings of the county and burgh Councils shall be open to the public. Their records shall be open to public inspection, and their finances shall be publicly audited in the manner prescribed by law.

(60) County and burgh Councils shall have such powers, duties and functions as may be vested in or delegated to them by law, according to the principle of subsidiarity.

### *VIII. Fundamental Rights and Liberties*

(61) All citizens are equal before the law and shall enjoy the law's equal protection.

(62) There shall be universal religious liberty. There shall be no religious tests for any public office. No person shall suffer any civil penalties or disqualifications on the grounds of their religion, or lack thereof. All religious groups shall enjoy the same protection of the law, provided that they respect the equal liberty of other faiths and do not disturb the public peace. Citizens may freely profess and practice their own religion, and religious communities may freely establish their own churches, chapels, meeting houses, seminaries, schools and charitable bodies in accordance with the law.

- (63) All citizens are equally admissible, according to merit, to public employments.
- (64) All forms of slavery, debt-bondage, and forced labour, are absolutely forbidden.
- (65) The personal liberty of all citizens is guaranteed; no one can be prosecuted nor arrested save in the cases provided by law, and in the form which the law prescribes.
- (66) No person shall be held or detained for more than twenty-four hours before being brought before a court and charged with a criminal offence according to law.
- (67) No-one shall twice be put in jeopardy of punishment for the same offence, except where a retrial is permitted according to law in light of new and compelling evidence.
- (68) Criminal trials shall be public, unless the law otherwise makes provision in cases where a public trial is dangerous to order or prejudicial to justice; and in that case, the court or tribunal having cognisance of the case shall declare it by a judicial order.
- (69) No one shall be forced to give evidence against themselves.
- (70) No laws of attainder or *ex post facto* laws shall be enacted.
- (71) All forms of torture and of degrading or inhumane treatment are prohibited.
- (72) The penalty of death is forever abolished.
- (73) The right to trial by jury shall be guaranteed by law for all serious criminal trials.
- (74) All citizens shall have freedom of speech, expression, printing, and publication, subject only to such reasonable restrictions as may be imposed by law on the grounds of obscenity, defamation or incitement to violence.
- (75) All citizens shall have personal privacy, including privacy of their home, personal and private life, and security of letters and personal communications.
- (76) All citizens shall have freedom of association for all lawful purposes, as well as freedom of peaceful assembly, subject only to such reasonable restrictions on outdoor public assemblies as may be imposed by law on grounds of public order and safety.
- (77) All citizens shall have freedom of movement, including the right to enter and leave the Republic, subject only to such reasonable restrictions as may be necessary to protect the privacy of others, or as are imposed on persons who are on bail or parole.

#### *IX. Social, Economic and Legal Provisions*

- (78) The foundation of the economic system is the subordination of all economic activities to human needs in accordance with civic-humanist principles; economic activities and the distribution of resources shall therefore be limited and regulated by law in order to prevent the exploitation of people and to promote social justice and the common good, so that all citizens may enjoy a dignified life in an ethical community.

(79) Private property is protected. The state can require the sacrifice of a property on account of a legally established public interest, but only with a previous indemnity. Nevertheless, the law may define the rights and duties of property ownership, may regulate the means of acquiring and disposing of property, and may impose taxes on property and inheritances, in accordance with the requirements of the common good.

(80) No taxes, charges, or duties, shall be levied, except by virtue of a law, and no public funds shall be expended except as allocated by law. No direct taxes may be imposed for longer than twelve months, but they may be renewed.

(81) The Republic shall promote personal ownership of the means of production, distribution, finance and exchange, realised through self-employment, partnerships, mutual societies and co-operatives. Public or corporate ownership of the means of production, distribution, finance and exchange shall also be recognized by law, in as far as is expedient for the common good. The law shall regulate banking and finance in the interests of justice and solidarity, and shall suppress all usury and speculation.

(82) Public utilities and essential services, including water supply, sewage and power generation, shall be kept in public hands and run on a non-profit basis for the people.

(83) It shall be incumbent upon the Parliament, the Council of Ministers, and all other public authorities to give practical effect, by legislative action, to the following rights:

(i) The right to an appropriate and worthwhile economic occupation.

(ii) The right to a fair wage sufficient to maintain dignity of life.

(iii) The right safe, healthy and humane working conditions.

(iv) The right to adequate opportunities for rest, leisure, and family and civic life, including a maximum working week of forty-eight hours.

(v) The right to decent housing and to a secure and comfortable home.

(vi) The right to universal public healthcare, and to adequate protection from the economic fears of old age, sickness, accident, and unemployment, by means of a universal public social insurance system to be established by law.

(84) The Republic shall protect and honour the family and the institution of marriage as the foundations of society. Family members have a right to mutual care, counsel, assistance and protection, and a duty to provide these.

(85) The Republic recognises its duty of stewardship for future generations; it shall protect the natural environment from exploitation, depletion of resources, pollution, and other forms of damage, and take steps to make the built environment beautiful.

(86) An educated and virtuous citizenry being necessary for our happiness and prosperity, and for the preservation of liberty, the Republic shall provide free universal education, and shall promote learning and research at public universities.

(87) The guilds, under their respective charters which shall be granted in accordance with the law, shall enjoy freedom to conduct their own internal affairs, to elect their own officers in a general council of the guild members, and to maintain their common funds and guild halls. Subject to the law, they shall regulate their respective crafts, trades, arts or professions, supervise the training of apprentices and the accreditation of journeymen, and provide for the well-being of their members and the whole city.

(88) There shall be no standing army in time of peace. The defence of the Republic shall be vested in a Citizens' Militia, which shall consist of the able-bodied citizens trained and summoned to arms in the manner determined by a law.

(89) The existing laws, except only for those which are incompatible with this Constitution, shall remain in force until amended or repealed by Act of Parliament.

(90) Provision shall be made by law to ensure the free, peaceful and orderly conduct of nominations, selections, referendums and plebiscites, and for the prevention of all fraud, bribery, and coercion.

(91) Persons holding public office should act solely in terms of the public interest. They should not seek financial or other material benefits for themselves, their family, or friends, and should not place themselves under any financial or other obligation to individuals or organisations that might influence them in the performance of their official duties. They have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. Parliament shall have the authority to enforce the observance these rules and other principles of good conduct by means of appropriate legislation.

#### *X. Status and Amendment of Constitution*

(92) This Constitution shall remain inviolate forever as the supreme and fundamental law of the Republic. It may not be revoked, suspended or abrogated. Any law, treaty, regulation, or ordinance, which is incompatible with this Constitution, is annulled.

(93) This Constitution may be amended upon the proposal of Parliament. A proposed amendment shall be adopted only if approved, twice, by a two-thirds majority vote of Parliament, with an annual selection of Representatives between the first and second approvals. The proposed amendment shall be ratified if, within eighteen months, it is endorsed by an absolute majority of the enfranchised citizens voting in a referendum.