

Proposed Constitutional Platform Act

An Act of the Scottish Parliament to make provision for the establishment of an Constitutional Platform, to regulate relationships between the legislative, executive and judicial institutions of the independent Scottish State, and for connected purposes:

1. Constitutional Platform

(1) The First Minister of Scotland, in the name and on behalf of the sovereign people of Scotland, shall, within twenty-four hours of the coming into effect of this Act, enact and promulgate the Constitutional Platform as set out in the Schedule to this Act.

(2) With effect from its promulgation, the Constitutional Platform shall be the supreme law of an independent Scotland, from which all other public institutions and authorities in Scotland shall derive their legitimacy.

2. Short Title and Commencement

(1) This Act may be cited as the Constitutional Platform Act, 2015.

(2) This Act shall come into effect at noon on the day that Scotland becomes independent.

Schedule

Constitutional Platform

ARRANGEMENT OF SECTIONS

CHAPTER 1. FORM OF GOVERNMENT

1. Sovereignty
2. Supreme Law

CHAPTER 2. FUNDAMENTAL RIGHTS AND FREEDOMS

3. General Provisions
4. Right to Life
5. Prohibition of Torture
6. Prohibition of Slavery and Forced Labour
7. Personal Liberty
8. Right to Fair Trial
9. Right to Appeal
10. No punishment without Law
11. Protection of Private and Family Life
12. Freedom of Thought, Conscience and Religion
13. Freedom of Expression
14. Freedom of Assembly and Association
15. Freedom of Movement
16. No Imprisonment for Debt
17. Familial Rights
18. Property Rights
19. Freedom of Information

CHAPTER 3. DIRECTIVE PRINCIPLES

20. Status of Directive Principles
21. Employment Rights
22. Social and Environmental Rights

CHAPTER 4. THE QUEEN'S COMMISSIONER

23. Head of State
24. The Queen's Commissioner in Scotland
25. Appointment and Tenure of Queen's Commissioner
26. Information to Queen's Commissioner
27. Queen's Commissioner to Act on Advice

CHAPTER 5. SCOTTISH GOVERNMENT

28. Executive Authority
29. Composition of the Government
30. Election and Appointment of First Minister
31. Deputy First Minister and Other Ministers

32. Tenure of Office of First Minister
33. Assignment of Responsibilities to Ministers
34. Procedure of Cabinet Meetings
35. Absence or Illness of First Minister
36. Secretary to Cabinet
37. Law Officers

CHAPTER 6. THE PARLIAMENT OF SCOTLAND

Part I. Election and Composition

38. Establishment of Parliament
39. Composition of Parliament
40. Qualification of Electors
41. Disqualification of Electors
42. Ordinary General Elections
43. Extraordinary General Elections
44. Meetings of Parliament
45. Term of Office of Members
46. Resignation of Members
47. Disqualification from Membership of Parliament
48. Judicial Proceedings Concerning Disqualification

Part II. Privileges and Procedures

49. Presiding Officer
50. Clerk of Parliament
51. Scottish Parliamentary Corporate Body
52. Parliamentary Bureau
53. Standing Orders
54. Power to Call for Witnesses and Documents
55. Conflicts of Interest
56. Privileges and Immunities of Members

Part III. Legislation

57. Power to Make Laws
58. Introduction of Bills
59. Consideration of Bills
60. Submission of Bills for Royal Assent

CHAPTER 7. JUDICIARY

61. Judicial Authority
62. Appointment of Judges
63. Tenure of Office
64. Removal from Office
65. Judicial Independence
66. Appeals on Constitutional Matters
67. Prerogative of Mercy

CHAPTER 8. FINANCE

68. Consolidated Fund
69. Withdrawals from Consolidated Fund or other Public Funds
70. Authorisation of Expenditure
71. Authorisation of Expenditure in advance of Appropriation
72. Contingencies Fund
73. Remuneration of members of Parliament and Ministers
74. Remuneration of Constitutional Officers
75. Public Debt
76. Auditor-General for Scotland

CHAPTER 9. ADMINISTRATION

77. Public Service Commission
78. Appointment etc of Public Officers
79. Appointment of Permanent Secretaries
80. Royal and Household Appointments
81. Public Services Ombudsman

CHAPTER 10. LOCAL GOVERNMENT

82. Local Authority Areas
83. Local Elections

CHAPTER 11. EXTERNAL RELATIONS

84. Treaties and International Agreements
85. Shared Service Agreements
86. European Union
87. Commonwealth and United Nations
88. British-Irish Council

CHAPTER 12. MISCELLANEOUS PROVISIONS

89. Coast Guard and Scottish Defence Force
90. Electoral Commission
91. Civic Honours
92. States of Emergency
93. Oaths of Office and Allegiance
94. Interpretation

CHAPTER 13. TRANSITION AND AMENDMENT

95. Transitional Provisions
96. Power to Amend Constitution

Chapter 1. Form of Government

1. Sovereignty

Sovereignty resides in the people of Scotland, who shall exercise it directly by means of referendums and indirectly through their elected representatives in accordance with the provisions of this Constitutional Platform.

2. Supreme Law

(1) This Constitutional Platform is the supreme law of Scotland.

(2) If any Act of Parliament, treaty, regulation, order, or other law, is inconsistent with this Constitutional Platform, that other law shall be null and void to the extent of the inconsistency.

Chapter 2. Fundamental Rights and Freedoms

3. General Provisions

(1) The following provisions shall have effect for the purpose of guaranteeing the fundamental rights and freedoms of all persons in Scotland or subject to the jurisdiction of Scottish Courts.

(2) The rights and freedoms hereby guaranteed shall be enjoyed by all persons without discrimination on grounds such as sex, race, colour, religion, personal beliefs, abilities, status or sexuality.

(3) There shall be no limitation upon their exercise save such as is necessary to prevent or penalise acts by any person or group of persons calculated to infringe or destroy the rights and liberties of other persons or groups, or forcibly to subvert the constitutional order which establishes and guarantees those rights and liberties.

(4) Subject to the qualification mentioned in sub-section (3) no law may be passed which abrogates or derogates from guaranteed rights and liberties, unless passed by way of a constitutional amendment in accordance with Section 94 of this Constitutional Platform.

(5) Every person shall be granted by a competent court a full and adequate and speedy remedy for any infringement whatsoever of his or her guaranteed rights and freedoms.

(6) None of the rights guaranteed in this Chapter of the Constitutional Platform shall be subjected to any restriction or limitation other than as expressly provided, nor shall any such restriction or limitation be applied for any purpose other than that expressly prescribed.

4. Right to Life

(1) Every person has the right to life.

(2) No person shall be condemned to death or executed.

(3) If any person's death occurs as a result of a lawful act of war, or of another person's acting in a manner which is permitted by law and which is no more than necessary to defend a person or persons from unlawful violence, or to effect a lawful arrest or to prevent the escape of a person lawfully detained, the action so taken shall not be rendered unlawful by the fact that death has result from it.

(4) This Section shall not prohibit voluntary euthanasia or the medical termination of pregnancy in accordance with the law.

5. Prohibition of Torture

No person shall be subjected to torture, or to inhuman or degrading treatment or punishment.

6. Prohibition of Slavery and Forced Labour

(1). No person shall be held in slavery or servitude, nor shall any person be required to perform forced or compulsory labour.

(2) For the purposes of this Section, 'forced or compulsory labour' shall not include: -

(a) Any work, not of a hazardous, degrading or profit-making nature, required to be done in the ordinary course of detention imposed according to the provisions of Section 7 of this Constitutional Platform, or during conditional release from such detention;

(b) Any service of a military character or, in case of conscientious objectors, service exacted instead of military service;

(c) Any service lawfully exacted in case of an emergency or calamity threatening the life or well-being of the community; or

(d) Any work or service which forms part of normal civic obligations.

7. Personal Liberty

(1) Every person has the right to personal liberty and security, and accordingly no person shall be deprived of liberty save in the following cases and in accordance with the procedures prescribed by the law of Scotland: -

(a) In the case of his or her lawful detention in accordance with the sentence passed by a competent Court upon his or her conviction of an offence;

(b) In the case of his or her lawful arrest or detention for non-compliance with the lawful order of a court;

(c) In the case of his or her lawful arrest or detention upon reasonable suspicion of having committed, or being engaged in the commission of, or being about to commit, a criminal offence under the law of Scotland;

(d) In the case of detention of a person under the age of 16 years by lawful order for the purpose of his or her educational supervision or personal welfare;

(e) In case of the lawful detention of a person who is of unsound mind and danger to themselves or others;

(f) In the case of the lawful arrest of a person to prevent his or her unlawfully entering Scotland, or of a person against whom lawful action is being taken with a view to deportation or extradition.

(2) Every person who is arrested or detained shall be informed, as soon as is possible in the circumstances of the case, in a language which he or she understands, of the reason for his or her arrest or detention and of any charge which is to be laid against him or her; he or she shall be entitled to inform a member of his or her family of his or her whereabouts and of the stated reason for his or her detention, and shall be entitled as soon as possible to consult a legal practitioner.

(3) Every person who is arrested or detained in accordance with Section 7, sub-section (1)(c) of this Constitutional Platform shall, wherever it is practicable to do so, be brought before a competent court not later than the first lawful day after being taken into custody, such day not being a public or local holiday: failing which, he or she shall be brought before a competent court as soon as is possible thereafter.

(4) Every person who is arrested or detained in accordance with Section 7, sub-section (1)(c) of this Article shall be brought to trial as soon as is possible; no person who has been committed for trial of any offence shall be detained in custody for more than 140 days from the date of such committal, except in so far as the High Court of Justiciary may grant lawful extensions.

(5) Every person who has been deprived of liberty by arrest or detention has the right to petition the Court of Session or High Court of Justiciary for liberation, and shall be liberated by order of the Court as soon as is practicable in the circumstances of the case unless such deprivation of liberty is proven to be lawful; if a person so deprived of liberty is for any reason unable to take proceedings on his or her own behalf any other person who can show good cause for so doing may petition the Court in his or her name to test the lawfulness of any such detention.

8. Right to Fair Trial

(1) Every person has the right to fair and impartial judicial proceedings to determine any question raised by process of law concerning his or her legal rights or obligations, or any criminal charge against him or her.

(2) Every such question or charge shall be heard and determined by the competent court or tribunal established by law. Trials shall be conducted in public and judgment shall be pronounced publicly, except in so far as the law permits a court or tribunal to exclude members of the public from part of such proceedings or to prohibit publication of reports concerning part of such proceedings on all or any of the following grounds:

(a) The protection of national security;

(b) The prevention of disorder in court;

(c) The protection of children or young people, or other vulnerable persons;

(d) The protection of the personal privacy of both parties; or

(e) In the interests of justice, in circumstances in which publicity would inevitably cause serious prejudice to the fair determination of an issue.

(2) Every person charged with a criminal offence shall be presumed innocent until proven guilty according to law.

(3) Every person charged with a criminal offence has the following rights:

(a) To be informed in detail, as soon as is possible in the circumstances of the case, and in a language which he or she understands, of the charge which is made against him or her;

(b) To have adequate time and facilities for preparing a defence;

(c) To defend himself or herself in person or through a legal practitioner of his or her own choosing;

(d) To such financial assistance as is necessary in the light of his or her means to secure adequate legal assistance if desired;

(e) To examine or have examined witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf in the same conditions as witnesses against him or her;

(f) To have all proceedings in court connected with the charge against him or her translated by a competent interpreter into the language which he or she best understands, if that language is not the language of the Court; and

(g) To be informed in a language which he or she understands of his or her rights under this Sections 7 and 8 of this Constitutional Platform.

(4) No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he has already been finally acquitted or convicted in accordance with the laws of Scotland.

Provided, that this provision shall not prevent the reopening of the case in accordance with the law and penal procedure of Scotland, if there is evidence of new or newly discovered facts, or if there has been a fundamental defect in the previous proceedings, which could affect the outcome of the case.

(5) The right to trial by jury, as such right existed under the law of Scotland at the time of the coming into effect of Constitutional Platform shall not be suspended, restricted or abridged.

9. Right to Appeal

(1) Everyone convicted of a criminal offence by a court or tribunal shall have the right to have his conviction or sentence reviewed by a higher court or tribunal.

(2) The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.

(3) This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal.

10. No Punishment without Law

(1) No person shall be convicted of any criminal offence save in respect of an act or omission which, at the date of its commission, constituted a criminal offence under the law of Scotland or the law of nations.

(2) No penalty shall be imposed which is heavier than the maximum permitted under the law of Scotland at the date of the commission of the offense.

11. Protection of Private and Family Life

(1) Everyone has the right to respect for privacy in his or her personal affairs, family life, home, and correspondence.

(2) There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

(3) Every person who suffers unlawful interference with his or her personal privacy shall be entitled to an adequate civil remedy therefore.

(4) Provision shall be made by law for the safeguarding of personal data and information, and in particular to preserve the privacy and security of all communications and transactions conducted by electronic media.

12. Freedom of Thought, Conscience and Religion

(1) Every person has the right to freedom of thought and of conscience and to the free confession and practice of religion.

(2) This right includes freedom to change his or her religion or belief and freedom (either alone or in community with others and in public or private) to manifest his or her religion or belief in worship, teaching, practice and observance.

(3) This right also includes freedom not to believe or participate in any religion.

(4) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and necessary in a democratic society in the interests of public safety, or for the protection of public order, health or morals.

(5) Nothing in this Constitutional Platform shall affect the existing status, freedom or liberties of the Church of Scotland, as recognized by the Church of Scotland Act 1921 and by the Articles Declaratory of the Constitutional Platform of the Church of Scotland in Matters Spiritual.

(6) Nothing in this Constitutional Platform shall have the effect of invalidating any provision made by law for the state funding of denominational schools.

13. Freedom of Expression

(1) Every person has the right to freedom of speech, writing and publication, and of the expression of opinion, including the right to impart and receive information and ideas freely to and from any other person or persons whatsoever.

(2) The law may prohibit abuses of this right, to the extent necessary in a democratic society –

(a) In the interests of national security or public safety;

(b) For the prevention of disorder or crime;

(c) For the protection of health or morals;

(d) For the protection of the reputation or rights of others;

(e) For preventing the unlawful disclosure of personal or private information received in confidence; or

(f) For maintaining the authority and impartiality of the judiciary.

(3) The foregoing provisions shall not be interpreted as invalidating laws regulating the licensing of broadcast transmissions or cinemas, theatres and other like places of public resort.

14. Freedom of Assembly and Association

(1) Every person has the right to freedom of peaceful assembly and to freedom of association with others for all lawful purposes.

(2) This right shall include, but not be limited to, the freedom to freely form and to join political parties and trade unions.

(3) The right to freedom of assembly and of association shall be subject only to such restrictions as are prescribed by law and are necessary in a democratic society –

(a) For the protection of national security or public safety;

(b) For the prevention of disorder or crime; or

(c) For the protection of the rights of others.

15. Freedom of Movement

(1) Subject to sub-section (2) of this Section, everyone lawfully within the territory of a Scotland shall, within that territory, have the right to liberty of movement and freedom to choose his residence, and shall have the freedom to leave the country at will.

(2) No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society: -

- (a) In the interests of national security or public safety;
- (b) For the prevention of disorder or crime;
- (c) For the protection of public health or the environment; or
- (d) For the protection of the rights and freedoms of others.

(3) Everyone in Scotland has the right of free access to hills, mountains, waterways and open country, except in cases in which unrestricted access is likely to cause substantial interference with agriculture, forestry or fishing, and subject to any provisions of the law restricting this right under sub-section (2) of this Section.

16. No Imprisonment for Debt

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

17. Familial Rights

(1) Men and women of marriageable age have the right to marry and to found a family in accordance with the laws governing the exercise of this right.

(2) The extent to which rights under this Section shall extend to same-sex couples shall be determined by law.

18. Property Rights

(1) Every person has the right to hold private property, and to the peaceful enjoyment of his or her property.

(2) Parliament may, however, enact laws that control or restrict the use or acquisition of property in the general interest, in cases where Parliament determines that the needs of the community require to be given precedence over the rights of individuals.

(3) All laws which sanction measures of expropriation shall make provision for fair compensation.

(4) Nothing in this Section shall have the effect of invalidating any tax, duty or custom levied in accordance with the law, or the lawful collection of any service charge or administrative fee, or the lawful imposition of a criminal penalty of fine or forfeiture.

19. Freedom of Information

(1) Every person shall have the right of access to governmental information, including on request all documents, files and other records pertaining to them or to government policy.

(2) The right of access to official information can only be restricted by law to the extent

necessary, in a democratic society: -

- (a) For the protection of national security;
- (b) For the purpose of protecting personal privacy or commercial confidentiality;
- (c) For the prevention of crime; or
- (d) For ensuring the due process of judicial proceedings.

(3) It shall be the duty of the Parliament of Scotland to ensure by law that, so far as possible, in such sound and television broadcasting services as may be provided in Scotland, due impartiality is preserved in respect of matters of political or industrial controversy or relating to current public policy and that broadcasting facilities and time are fairly apportioned between persons belonging to different political parties.

Chapter 3. Directive Principles

20. Status of Directive Principles

The provisions of this Chapter shall not be enforceable in any court, but the principles therein contained are nevertheless fundamental to the governance of Scotland and it shall be the responsibility of the Scottish Government and Parliament to apply these principles.

21. Employment Rights

(1) Every person has the right to work and to pursue freely any profession or vocation subject only to such requirements as to minimum qualifications as may be prescribed by or in accordance with the law.

(2) Every person has the right to conditions of work which are fair, healthy, and which respect the dignity of the person.

(3) In particular, Parliament shall ensure by means of appropriate legislation that every worker has the following rights, which may not be renounced by any contractual provision –

- (a) Safe and healthy conditions of work;
- (b) An adequate minimum wage as determined by law;
- (c) Protection against arbitrary or unfair dismissal;
- (d) Maximum working hours, and minimum entitlements to days of rest and holidays, sufficient to maintain health and to meet obligations of family life;
- (e) The right to bargain collectively and to enforce collective bargains through strike action, except in the armed forces, police and essential public services;
- (f) Freedom from harassment, intimidation, humiliation or abuse in the workplace.

22. Social and Environmental Rights

- (1) Every person who is unable to work by reason of physical or mental disability or infirmity, or by reason of family commitments, or because suitable employment is presently unavailable in their community, has a right to be provided with benefit payments or other social assistance as determined in accordance with the law.
- (2) Parliament shall be responsible for ensuring by legislation that all persons who have reached the age of retirement fixed by law are entitled to pensions adequate for their dignity and well-being.
- (3) Parliament shall ensure that health services are properly regulated and maintained, and that a system of universal publicly-funded health care, to the highest practicable standards of medical practice, is available to all.
- (4) Parliament shall ensure that adequate provision is made for universal primary and secondary education, and that qualified students are entitled to publicly funded tuition and other means of financial support at institutions of higher learning, technical training and research.
- (5) Parliament shall be responsible for the sustainable stewardship of Scotland's natural environment, including, but not limited to –
 - (a) Ensuring sustainable management and conservation of the environment and natural resources, and ensuring the equitable sharing of the accruing benefits;
 - (b) Promoting tree cover and preventing soil erosion;
 - (c) Protecting wildlife and biodiversity;
 - (d) Protecting the commons, in particular clean air, water and common land;
 - (e) Eliminating, so far as it is practicable to do so, processes and activities that are likely to endanger the environment;
 - (f) Promoting the beauty and harmony of the built environment;
 - (g) Encouraging permaculture and promoting local food security; and
 - (h) Investing in sources of clean renewable energy.

Chapter 4. The Queen's Commissioner

23. Head of State

- (1) Her Majesty, Elizabeth Windsor, and her heirs and successors according to law, shall be Scotland's Head of State.
- (2) The Head of State shall perform such constitutional, civic and ceremonial functions, for and on behalf of Scotland, as are vested in the Head of State by or in accordance with this Constitutional Platform.
- (3) Parliament may by law make provision for:

- (a) The succession to the office of the Head of State;
- (b) The appointment of a regent during the minority or dotage of the Head of State;
- (c) Royal titles;
- (d) The Civil List; and
- (e) The regulation of the Royal Household in Scotland.

24. The Queen’s Commissioner in Scotland

- (1) The Queen’s Commissioner is the official representative of the Head of State.
- (2) In the absence of the Head of State from Scotland, the Queen’s Commissioner shall perform the duties of the Head of State in accordance with this Constitutional Platform.

25. Appointment and Tenure of Queen’s Commissioner

- (1) The Queen’s Commissioner shall be appointed by Her Majesty after consultation with the First Minister and the Presiding Officer.
- (2) No person shall be appointed as the Queen’s Commissioner unless he is domiciled in Scotland and eligible to vote in elections for the Parliament of Scotland; but no member of Parliament, nor any person who has within a period of five years immediately prior to his appointment held any Ministerial office in Scotland, may be appointed as the Queen’s Commissioner.
- (3) Subject to sub-section (4) of this Section, the Queen’s Commissioner shall hold office for a period of five years, and may from time to time be reappointed.
- (5) The Queen’s Commissioner may at any time tender his resignation to Her Majesty, and shall do so if a vote of censure in the Queen’s Commissioner is passed by a two-thirds majority of the members of Parliament on grounds of incapacity or misconduct.
- (6) The Queen’s Commissioner shall before assuming the functions of his office, take and subscribe before the Lord President of the Court of Session the following oath:-

I,....., swear that I will be faithful and bear true allegiance to Her (or His) Majesty (Specify the name of the Head of State), her (or his) heirs and successors, according to law, and that I will uphold the dignity of the office of Queen’s Commissioner, and will justly and faithfully carry out my duties in the administration of Scotland in accordance with the Constitutional Platform and the law.

26. Information to Queen’s Commissioner

It shall be the duty of the First Minister –

- (a) To arrange for the circulation to the Queen’s Commissioner of the copies of the agenda and minutes of Cabinet and all other papers laid before Cabinet at the time when they are circulated to Ministers; and

(b) To furnish such information relating to the affairs of Scotland and proposals for legislation as the Queen's Commissioner may call for.

27. Queen's Commissioner to Act on Advice

(1) In the exercise of his functions under this Constitutional Platform or any other law, the Queen's Commissioner shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, except in cases where he is required by this Constitutional Platform to act in accordance with the advice of, or after consultation with, any person or authority other than the Cabinet or in his own deliberate judgment.

(2) Where the Queen's Commissioner is required by this Constitutional Platform to exercise any function after consultation with any person or authority other than the Cabinet, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(3) Where the Queen's Commissioner is required by this Constitutional Platform to act in accordance with the advice of, or after consultation with, any person or authority, the question of whether he has in any matter so acted shall not be called in question in any court.

Chapter 5. Scottish Government

28. Executive authority

(1) The executive authority of Scotland shall be vested in the Scottish Government.

(2) Nothing in this section shall preclude persons or authorities other than the Scottish Government from exercising such functions as may be conferred upon them by law.

29. Composition of the Government

The Scottish Government shall consist of the First Minister, the Deputy First Minister, and the other Ministers appointed and holding office in accordance with this Constitutional Platform.

30. Election and Appointment of First Minister

(1) The First Minister shall be nominated as such by the members of Parliament from amongst their number, and shall be formally appointed by the Queen's Commissioner.

(2) The nomination of the First Minister shall take place –

(a) At the first meeting of Parliament following a general election; and

(b) Whenever there is a vacancy in the office of First Minister.

(3) A list specifying all candidates proposed and their respective proposers shall be submitted by or by direction of the Presiding officer to each member of Parliament.

(4) All members shall be eligible for candidature, but no member shall be a candidate unless he is proposed as such by four other members, and no member may propose more than one candidate.

(5) Any candidate may withdraw his candidature at any time before the conclusion of the election.

(6) If, at any stage of the election, a candidate dies or in the opinion of the Presiding Officer is seriously incapacitated, or if for any other reason the election in the opinion of the Presiding officer cannot or is unlikely to be successfully completed in accordance with this Section, the Presiding Officer may either –

(a) Countermand the election in which case the electoral procedure shall be commenced *de novo*; or

(b) Suspend the election proceedings until some later time or day.

(7) The election shall be by open and public ballot.

(8) Each member shall have only one vote at the first and at any subsequent ballot.

(9) If any candidate should at any ballot receive an absolute majority of votes he shall thereby be deemed to have been nominated as First Minister.

(10) If no candidate should receive an absolute majority of votes at the first round of voting a further round of voting shall be held wherein –

(a) The candidate who received fewest votes at the first round shall thereby be eliminated; or

(b) If there is a tie between two or more candidates for the fewest number of votes received at the first round, the Presiding Officer shall decide by lot which one of such candidates shall be eliminated.

(11) If in a second ballot no candidate should receive an absolute majority of votes, further ballots shall be held until one candidate receives an absolute majority of votes.

(12) If, after one or more rounds, all candidates save two have been eliminated, only one further round shall be conducted to decide the election between these two candidates at which the candidate receiving the greater number of votes shall be elected First Minister.

(13) If the ballot conducted in accordance with the preceding sub-section results in a tie between the two candidates, one further ballot shall be conducted to decide the election between these two candidates and if there is a tie between them again, the Presiding Officer shall countermand the election and the election procedure shall be commenced *de novo*.

(14) When the count has been completed in any round of voting the Presiding Officer shall forthwith announce to Parliament the number of votes received by each candidate and, where any candidate has been elected, shall declare such candidate to be nominated as First Minister.

(15) The person so nominated by Parliament shall without delay be appointed and sworn into office as First Minister by the Queen's Commissioner.

(16) Any dispute arising out of or in connection with the calling or conduct of any election meeting or the election of the First Minister shall be determined by the Presiding Officer, whose determination of the matter in dispute shall be final and conclusive and shall not be questioned in any proceedings whatsoever.

31. Tenure of Office of First Minister

(1) If a resolution of no confidence in the First Minister is passed by Parliament by an absolute majority vote of the members thereof, the Queen's Commissioner shall remove the First Minister from office, whereupon the members of Parliament shall meet as soon as possible to elect a new First Minister in accordance with the provisions of Section 30 of this Constitutional Platform.

(2) A motion for a resolution of no confidence in the First Minister shall not be passed by Parliament unless notice of the motion has been given to the Presiding Officer at least three clear days before it is introduced.

(3) The office of First Minister shall also become vacant –

(a) When, after a general election, the members of Parliament meet to elect a First Minister in accordance with the provisions of Section 30 of this Constitutional Platform;

(b) If he ceases to be a member of Parliament for any reason other than a dissolution of Parliament;

(c) If he is elected as Presiding Officer or Deputy Presiding Officer, or is appointed as Queen's Commissioner; or

(d) If he resigns such office by writing under his hand addressed to the Queen's Commissioner.

(4) During any period when the office of First Minister is vacant, the person who held that office immediately before the vacancy arose shall continue to perform the functions of First Minister until a person is elected to the office of First Minister according to the provisions of Section 30 of this Constitutional Platform:

Provided, that if the person holding the office of First Minister dies, the Queen's Commissioner shall, acting on the advice of the Cabinet, appoint the Deputy First Minister or, in the absence or incapacity thereof, one of the other Ministers, to perform the functions of First Minister until a person duly is elected to that office.

32. Deputy First Minister and Other Ministers.

(1) The Queen's Commissioner, on the advice of the First Minister, shall appoint the Deputy First Minister and other Ministers from among the members of the Parliament.

Provided that if occasion arises for making a Ministerial appointment while

Parliament is dissolved a person who was a member of Parliament immediately before the dissolution may be appointed.

(2) A Minister appointed under this section—

(a) May at any time be removed from office by the Queen's Commissioner on the advice of the First Minister;

(b) Shall be removed from office by the Queen's Commissioner if Parliament by an absolute majority passes a vote of no-confidence in the Minister;

(b) May at any time offer his resignation to the Queen's Commissioner, which the Queen's Commissioner shall accept or reject on the advice of the First Minister.

(3) A Minister shall cease to hold if he ceases to be a member of the Parliament otherwise than by virtue of a dissolution.

33. Assignment of responsibilities to Ministers

Subject to any provisions specified by law, the First Minister may, by direction in writing under his hand charge any Minister with the responsibility for any Department or subject, and may revoke or vary any direction given.

34. Procedure of Cabinet Meetings

(1) Cabinet meetings are formal meetings of Ministers for the purpose of determining and resolving the policy of the Scottish Government.

(2) Cabinet meetings shall be summoned and presided over by the First Minister, or in his absence by the Deputy First Minister.

(3) No business except that of adjournment shall be transacted in the Cabinet if objection is taken by any member present that there are present less than a majority of the members for the time being of the Scottish Government.

(4) Subject to the preceding subsection, the Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in its membership, and any proceedings of the Cabinet shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

(5) The person presiding in the Cabinet may summon any person to a meeting of the Cabinet, notwithstanding that that person is not a member of the Cabinet, when in the opinion of the person presiding the business of the Cabinet makes the presence of that person desirable.

(6) Subject to the provisions of this Constitutional Platform, Cabinet may regulate its procedure (including the fixing of a quorum) in such manner as it things fit.

35. Absence or Illness of First Minister

(1) Whenever the First Minister is unable, by reason of illness or absence from Scotland, to perform the functions conferred on him by this Constitutional Platform, those functions

shall be performed by the Deputy First Minister or, if he too is unable to do so, the Queen's Commissioner may, by directions in writing, authorise some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Queen's Commissioner.

(2) The powers of the Queen's Commissioner under this section shall be exercised by him in accordance with the advice of the First Minister:

Provided that if the Queen's Commissioner, acting in his own deliberate judgement, considers that it is impracticable to obtain the advice of the First Minister owing to the First Minister's illness or absence, the Queen's Commissioner may exercise those powers without that advice and in his own deliberate judgement.

36. Secretary to Cabinet

(1) There shall be a Secretary to the Cabinet, who shall be appointed by the First Minister from amongst the Public Service of Scotland, after consultation with the Public Service Commission.

(2) The Secretary to the Cabinet shall have charge of the office of the Cabinet and shall be responsible, in accordance with such instructions as may be given to him by the First Minister, for arranging the business for, and keeping the minutes of, the meetings of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority, and shall have such other functions as the First Minister may direct.

(3) The First Minister, after consultation with the Public Service Commission, may remove the Secretary to the Cabinet from office on grounds of misconduct or incapacity.

37. Law Officers

(1) The Lord Advocate and the Solicitor General for Scotland shall be appointed by the Queen's Commissioner on the advice of the First Minister.

(2) The First Minister shall tender such advice only after consultation with the Judicial Service Commission.

(3) The Lord Advocate and the Solicitor General for Scotland shall be appointed for a term of four years, and may not be removed from office before the expiry of that term, except by a resolution of Parliament, on the grounds of misconduct, incapacity, or other due cause.

(4) The Lord Advocate and the Solicitor General for Scotland may at any time resign and shall do so if the Parliament resolves that the Scottish Government no longer enjoys the confidence of the Parliament.

(5) Where the Lord Advocate resigns in consequence of such a resolution, he shall be deemed to continue in office until the warrant of appointment of the person succeeding to the office of Lord Advocate is granted, but only for the purpose of exercising his retained functions.

(6) Any decision of the Lord Advocate in his capacity as head of the systems of criminal

prosecution and investigation of deaths in Scotland shall continue to be taken by him independently of any other person.

(7) The Lord Advocate and the Solicitor General for Scotland shall not be members of Parliament.

Chapter 6. The Parliament of Scotland

PART ONE ELECTION AND COMPOSITION

38. Establishment of Parliament

There shall be a national legislature for Scotland, which shall consist of a single chamber and shall be known as the Parliament of Scotland.

39. Composition of Parliament

(1) Parliament shall consist of 129 members, or such greater number of members as may hereafter be prescribed by an Act of the Parliament of Scotland.

(2) The members of Parliament shall be directly elected by the registered electors of Scotland, by secret ballot, according to the additional member system of proportional representation as specified in this Chapter.

(3) Provided that a quorum is present, the validity of any proceedings of the Parliament is not affected by any vacancy in its membership.

(4) Subject to this Constitutional Platform, and until and unless otherwise provided by an Act of the Parliament of Scotland, the mode of electing members, the distribution of constituency and regional members, the procedure for calculating the allocation of seats, the procedure for filling vacancies, and all other matters incidental to the holding of elections for the Parliament of Scotland shall continue to be the same as those hitherto applied for the election of members of the devolved Scottish Parliament under the Scotland Act 1998.

40. Qualifications of Electors

(1) Subject to the provisions of Section 41 of this Constitutional Platform, a person shall be qualified to be registered as a voter for the election of members of the Parliament of Scotland if, and shall not be qualified to be so registered unless he is lawfully resident in Scotland and has been domiciled in Scotland for a continuous period of six months immediately prior to the date of registration.

(2) A person who is ordinarily resident in Scotland but has not been resident in Scotland as required by sub-section (1), by reason of service furth of Scotland in the public service or as a member of Her Majesty's Armed Forces, shall not be disqualified from registering to vote on account of such absence.

41. Disqualification of Electors

No person shall be qualified to be registered as a voter for the election of members of the Parliament of Scotland if: -

- (a) He had not attained sixteen years of age;
- (b) He is interdicted or incapacitated for any mental infirmity by a court in Scotland or is otherwise lawfully determined in Scotland to be of unsound mind;
- (c) He is serving a sentence of imprisonment exceeding twelve months, imposed on him by such Scottish court; or
- (d) He is disqualified for registration as a voter by or under any law for the time being in force in Scotland by reason of his having been convicted of any offence connected with the election of members of Parliament.

42. Ordinary General Elections

- (1) The first ordinary general election for the Parliament of Scotland shall be held on the first Thursday in May of the year 2016.
- (2) Thereafter, ordinary general elections shall be held on the first Thursday in May the of fourth calendar year following that in which the previous ordinary general election was held, unless the day of the poll is determined by a proclamation under sub-section (4).
- (3) If the poll is to be held on the first Thursday in May, the Parliament—
 - (a) Is dissolved by virtue of this Section on the second Friday in April; and
 - (b) Shall meet within the period of seven days beginning immediately after the day of the poll.
- (4) If the Presiding Officer, after consultation with the First Minister and the Leader of the Opposition, proposes a day for the holding of the poll which is not more than one month earlier, nor more than one month later, than the first Thursday in May, then the Queen's Commissioner shall by proclamation—
 - (a) Dissolve the Parliament on the day proposed;
 - (b) Require the poll at the election to be held on the day proposed; and
 - (c) Require the Parliament to meet within the period of seven days beginning immediately after the day of the poll.

43. Extraordinary General Elections

- (1) The Presiding Officer shall propose a day for the holding of a poll if—
 - (a) The Parliament resolves that it should be dissolved and, if the resolution is passed on a division, the number of members voting in favour of it is not less than two-thirds of the total number of seats for members of the Parliament; or

(b) Parliament has failed to nominate a First Minister within a period of thirty days elapses following a general election, or following the death in office, resignation or removal of the former incumbent First Minister.

(2) If the Presiding Officer makes such a proposal, the Queen's Commissioner shall by proclamation —

(a) Dissolve the Parliament and require an extraordinary general election to be held;

(b) Require the poll at the election to be held on the day proposed; and

(c) Require the Parliament to meet within the period of seven days beginning immediately after the day of the poll.

(3) If a poll is held under this section within the period of six months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 41, sub-section (4)), that ordinary general election shall not be held.

(4) Sub-section (3) does not affect the year in which the subsequent ordinary general election is to be held.

44. Meetings of Parliament

(1) The first meeting of the Parliament following a general election shall be held on the day and at the time determined by the Presiding Officer, such day being no later than thirty days after the dates of the general election. The Presiding Officer shall notify members of the date and time of that meeting.

(2) The Parliament shall decide, on a motion of the Parliamentary Bureau, the date and time for any other meeting of the Parliament, or, until the Parliament has so determined, the Presiding Officer shall appoint such dates and times.

(3) Parliament shall meet for at least ninety sitting days during each parliamentary year.

(4) The Presiding Officer may convene the Parliament on other dates or at other times in an emergency.

(4) In calculating any period of days for the purposes of this Section, Section 42(3)(b) or (4)(c) or Section 43(2)(c), Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday in Scotland or a day appointed for public thanksgiving or mourning shall be disregarded.

45. Term of office of members

The term of office of a member of the Parliament begins on the day on which the member is declared to be returned and ends with the dissolution of the Parliament.

46. Resignation of members

A member of the Parliament may at any time resign his seat by giving notice in writing to the Presiding Officer.

47. Disqualification from membership of the Parliament

(1) No person shall be qualified for election as a member of Parliament who -

- (a) Is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) Holds, or is acting in, any judicial office, military office, diplomatic office, or other public office which is by any law for the time being in force in Scotland declared to be incompatible with membership of Parliament;
- (c) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in Scotland;
- (d) Is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Scotland;
- (e) Is under sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;
- (f) Is disqualified from membership of Parliament or from registration as an elector or from voting at elections under any law for the time being in force in Scotland relating to offences connected with elections; or
- (g) Holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election to Parliament or the compilation or revision of any electoral register for that purpose. (

(2) If a person who is disqualified from being a member of the Parliament or from being a member for a particular constituency or region is returned as a member of the Parliament or (as the case may be) as a member for the constituency or region, his return shall be void and his seat vacant.

(3) If a member of the Parliament becomes disqualified from being a member of the Parliament or from being a member for the particular constituency or region for which he is sitting, he shall cease to be a member of the Parliament (so that his seat is vacant).

48. Judicial proceedings concerning disqualification

(1) Any person who claims that a person purporting to be a member of the Parliament is disqualified or has been disqualified at any time since being returned may apply to the Court of Session for a declarator to that effect.

(2) An application in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted when the person was returned or to have arisen subsequently.

(3) No declarator shall be made on grounds which subsisted when the person was returned, if an election petition is pending or has been tried in which the disqualification on those grounds of the person concerned is or was in issue.

(4) The person in respect of whom an application is made shall be the defender.

(5) The applicant shall give such caution for the expenses of the proceedings as the Court of Session may direct; but any such caution shall not exceed £5,000 or such other sum as the Cabinet may by order specify.

(6) The decision of the court on an application under this section shall be final.

(7) In this section “disqualified” means disqualified from being a member of the Parliament or from being a member for the constituency or region for which the person concerned purports to sit.

PART 2 PARLIAMENTARY PROCEDURE

49. Presiding Officer

(1) The Parliament shall, at its first meeting following a general election, and before proceeding to nominate a First Minister, shall elect from among its members a Presiding Officer and two deputies.

(2) A person elected Presiding Officer or deputy shall hold office until the conclusion of the next election for Presiding Officer under sub-section (1) unless he previously resigns, ceases to be a member of the Parliament otherwise than by virtue of a dissolution or is removed from office by resolution of the Parliament.

(3) If the Presiding Officer or a deputy ceases to hold office before the Parliament is dissolved, the Parliament shall elect another from among its members to fill his place.

(4) The Presiding Officer’s functions may be exercised by a deputy if the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act.

(5) The Presiding Officer may (subject to standing orders) authorise any deputy to exercise functions on his behalf.

(6) Standing orders may include provision as to the participation (including voting) of the Presiding Officer and deputies in the proceedings of the Parliament.

(7) The validity of any act of the Presiding Officer or a deputy is not affected by any defect in his election.

(8) The Presiding Officer shall perform his duties in a non-partisan manner, and shall, on election as Presiding Officer, forthwith resign from membership of any political party.

50. Clerk of the Parliament

(1) There shall be a Clerk of the Parliament, who shall be appointed by the Scottish Parliamentary Corporate Body.

(2) The Clerk's functions may be exercised by any Assistant Clerk if the office of Clerk is vacant or the Clerk is for any reason unable to act.

(3) The Clerk may authorise any Assistant Clerk or other member of the staff of the Parliament to exercise functions on his behalf.

51. Scottish Parliamentary Corporate Body

(1) There shall be a body corporate to be known as "The Scottish Parliamentary Corporate Body" (referred to in this Constitutional Platform as the 'Corporate Body') to perform the functions conferred on the corporation by virtue of this Act or any other enactment.

(2) The members of the corporation shall be—

(a) The Presiding Officer; and

(b) Four members of the Parliament appointed in accordance with standing orders.

(3) The Corporate Body shall provide the Parliament, or ensure that the Parliament is provided, with the property, staff and services required for the Parliament's purposes.

(4) The Parliament may give special or general directions to the Corporate Body for the purpose of or in connection with the exercise of the corporation's functions.

(5) Any property or liabilities acquired or incurred in relation to matters within the general responsibility of the corporation to which (apart from this sub-section) the Parliament would be entitled or subject shall be treated for all purposes as property or (as the case may be) liabilities of the corporation.

(6) Any expenses of the Corporate Body shall be payable out of the Scottish Consolidated Fund.

(7) Any sums received by the corporation shall be paid into that Fund, subject to any provision made by or under an Act of the Parliament of Scotland for the disposal of or accounting for such sums.

(8) Until and unless otherwise provided by law, Schedule 2 of the Scotland Act 1998 (which makes further provision about the corporation) shall continue to have effect.

52. Parliamentary Bureau

(1) There shall be a Parliamentary Bureau consisting of –

(a) The Presiding Officer; and

(b) A Business Manager nominated by each party or parliamentary group having at least five members of Parliament.

(2) The Parliamentary Bureau, subject to this Constitutional Platform and to the standing orders of Parliament adopted under Section 53, shall determine Parliament's timetable

and order of business.

(3) In determining the order of business, the Parliamentary Bureau shall give precedence to business proposed by the Scottish Government, but at least one-third of parliamentary time shall be reserved for opposition business and for business proposed by committees, private members, or public petitions.

(4) The Parliamentary Bureau shall as far as possible conduct its meetings by consensus, but if a vote is necessary, each Business Manager shall have a bloc vote equal to the number of members of Parliament adhering to the party or parliamentary group that he represents.

53. Standing Orders

(1) Subject to the provisions of this Constitutional Platform, Parliament shall have the authority to regulate its procedures in accordance with its own standing orders, adopted by majority vote on the proposal of the Corporate Body.

(2) The standing orders shall include provision for preserving order in the proceedings of the Parliament, including provision for—

(a) Preventing conduct which would constitute a criminal offence or contempt of court, and

(b) A *sub judice* rule.

(3) The standing orders may include provision for excluding a member from proceedings or for withdrawing from a member of the Parliament his rights and privileges as a member.

(4) The standing orders shall include provision requiring the proceedings of the Parliament to be held in public, except in such circumstances as the standing orders may provide.

(5) The standing orders may include provision as to the conditions to be complied with by any member of the public attending the proceedings, including provision for excluding from the proceedings any member of the public who does not comply with those conditions.

(6) The standing orders shall include provision for reporting the proceedings of the Parliament and for publishing the reports.

(7) Standing orders which provide for the appointment of committees may include provision for those committees to have power to appoint sub-committees.

(8) The standing orders shall include provision for ensuring that, in appointing members to committees and sub-committees, regard is had to the balance of political parties in the Parliament.

(9) The standing orders may include provision for excluding from the proceedings of a committee or sub-committee a member of the Parliament who is not a member of the committee or sub-committee.

54. Power to call for witnesses and documents

(1) The Parliament may require any person—

(a) To attend its proceedings for the purpose of giving evidence; or

(b) To produce documents in his custody or under his control, concerning any subject for which any member of the Cabinet has general responsibility.

(2) The Parliament may not impose such a requirement on a judge of any court, or a member of any tribunal or commission in connection with the discharge by him of his functions as such.

(3) Such a requirement may be imposed by a committee or sub-committee of the Parliament only if the committee or sub-committee is expressly authorised to do so (whether by standing orders or otherwise).

(4) A person is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or produce in proceedings in a court in Scotland.

(5) A procurator fiscal is not obliged under this section to answer any question or produce any document concerning the operation of the system of criminal prosecution in any particular case if the Lord Advocate—

(a) Considers that answering the question or producing the document might prejudice criminal proceedings in that case or would otherwise be contrary to the public interest, and

(b) Has authorised the procurator fiscal to decline to answer the question or produce the document on that ground.

(6) The Presiding Officer or such other person as may be authorised by standing orders may—

(a) Administer an oath to any person giving evidence in proceedings of the Parliament; and

(b) Require him to take the oath.

(7) Standing orders may provide for the payment of allowances and expenses to persons—

(a) Attending proceedings of the Parliament to give evidence; or

(b) Producing documents which they have been required or requested to produce.

55. Conflicts of Interest

(1) Provision shall be made for a register of interests of members of the Parliament and for the register to be published and made available for public inspection.

(2) Provision shall be made—

(a) Requiring members of the Parliament to register in that register financial interests (including benefits in kind), as defined for the purposes of this paragraph;

(b) Requiring that any member of the Parliament who has a financial interest (including benefits in kind), as defined for the purposes of this paragraph, in any matter declares that interest before taking part in any proceedings of the Parliament relating to that matter.

(3) Provision made in pursuance of subsection (2) shall include any provision which the Parliament considers appropriate for preventing or restricting the participation in proceedings of the Parliament of a member with an interest defined for the purposes of subsection (2)(a) or (b) in a matter to which the proceedings relate.

(4) Provision shall be made prohibiting a member of the Parliament from—

(a) Advocating or initiating any cause or matter on behalf of any person, by any means specified in the provision, in consideration of any payment or benefit in kind of a description so specified, or

(b) Urging, in consideration of any such payment or benefit in kind, any other member of the Parliament to advocate or initiate any cause or matter on behalf of any person by any such means.

(5) Provision made in pursuance of subsections (2) to (4) shall include any provision which the Parliament considers appropriate for excluding from proceedings of the Parliament any member who fails to comply with, or contravenes, any provision made in pursuance of those subsections.

(6) Any member of the Parliament who takes part in any proceedings of the Parliament without having complied with, or in contravention of, any provision made in pursuance of sub-section (2) or (3), or who contravenes any provision under sub-section (4), is guilty of an offence.

(7) A person guilty of an offence under sub-section (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) Provisions made under this Section shall be made by standing orders or by Act of the Parliament of Scotland.

(9) The Parliament of Scotland shall be a public body for the purposes of the Prevention of Corruption Acts 1889 to 1916.

56. Privileges and Immunities of Members

(1) No civil or criminal proceedings may be instituted against any member of Parliament for words spoken before, or written in a report to, Parliament or a committee thereof or by reason of any matter brought by him therein by petition, bill, motion or otherwise.

(2) Members of Parliament shall enjoy immunity from arrest and criminal prosecution during sittings of Parliament, unless such immunity is waived by the Presiding Officer.

PART THREE
LEGISLATION

57. Power to make laws

- (1) Subject to the provisions of this Constitutional Platform, Parliament may enact, amend and repeal all laws for the peace, order and good government of Scotland.
- (2) The laws referred to in this section shall take the form of Bills passed by Parliament; and when a Bill has been passed by Parliament it shall be presented to the Queen's Commissioner for assent, and when such assent is given the Bill shall become law.
- (3) All laws made by Parliament shall be styled "Acts of Parliament" and the words of enactment shall be "Be it enacted by the Parliament of Scotland, as follows: -"

58. Introduction of Bills

Except on the recommendation of the Queen's Commissioner signified by a Minister, Parliament shall not –

- (a) Proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the Presiding Officer, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the Consolidated Fund or other funds of Scotland, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to Scotland;
- (b) Proceed upon any motion (including any amendment to a motion) which would, in the opinion of the Presiding Officer, if the motion were carried, require the introduction of such a Bill as is referred to in paragraph (a) to give effect to the motion; or
- (c) Receive any petition which, in the opinion of the Presiding Officer, requests that provision be made for any of the purposes aforesaid.

59. Consideration of Bills

- (1) Subject to any further provisions specified by Parliament's standing orders, bills shall be considered by Parliament in three stages, including:
- (a) Consideration of the general principles of the bill by one or more parliamentary committees, and a debate and decision on these by the Parliament;
- (b) Detailed consideration of the bill by committee, with the facility to propose amendments;
- (c) Final consideration of the bill by the Parliament and a decision whether it should be passed or rejected.
- (2) Committees may conduct hearings on bills, to which representations may be made by or on behalf of all persons or groups interested in the subject matter of the bill.

(3) Prior to introducing government bills, the Ministers should usually, except in matters of urgent or routine legislation, conduct consultations with experts, practitioners, civic groups and members of the public with knowledge and experience of the subject matter of the bill, or who are likely to be affected by or interested in the bill.

60. Submission of Bills for Royal Assent.

(1) The Presiding Officer shall submit bills passed by Parliament to the Queen's Commissioner for Royal Assent.

(2) The Queen's Commissioner, on receipt of a bill presented for Royal Assent, shall within twenty-eight days from the day on which the bill was presented to him, either:

(a) Grant assent, and thereby enact the bill as an Act of Parliament; or

(b) Withhold assent, and return the bill to Parliament for reconsideration.

(3) The Queen's Commissioner shall not withhold assent under sub-section (2)(b) to any bill unless:

(a) The Queen's Commissioner, after consultation with the Lord Advocate or the Solicitor General, has referred the bill to the Court of Session for an advisory ruling on its constitutional validity; and

(b) The Court of Session advises that the bill contains unconstitutional provisions.

(4) The Queen's Commissioner shall perform his functions under this Section acting in accordance with his own personal discretion.

(5) If after the elapse of the period of twenty-eight days specified in sub-section (2) of this Section, the Queen's Commissioner has not withheld Royal Assent in accordance with sub-sections (2)(b) and (3), the bill shall be deemed to have received Royal Assent.

Chapter 7. Judiciary

61. Judicial Authority

(1) The judicial authority of Scotland shall comprise -

(a) Court of Session and the High Court of Justiciary, as the supreme courts of Scotland for civil and criminal matters respectively; and

(b) The Sheriff Courts, and such other Courts and Tribunals as may from time to time be established by Act of Parliament.

(2) The Court of Session, High Court of Justiciary, Sheriff Courts, and other Courts and Tribunals shall have such jurisdiction, powers and authority as may be conferred upon those Courts respectively by this Constitutional Platform or any other law.

62. Appointment of Judges

(1) The judges of the Court of Session and High Court of Justiciary, Sheriffs, and all other members of the judiciary, with the exception of Justices of the Peace, shall be appointed in the name of Her Majesty by the Queen's Commissioner, acting on the advice of the Judicial Appointments Council.

(2) The Judicial Appointments Council shall consist of the following members –

(a) The Minister of Justice, as convenor;

(b) The Lord Advocate, as deputy-convenor;

(c) Two Senators of the College of Justice elected by their peers;

(d) A representative of the Faculty of Advocates; and

(e) Four lay representatives of the public, not being members of the judiciary or the legal profession, elected by Parliament, by proportional representation and secret ballot, for four-year terms.

(3) No person shall be appointed to the Court of Session, High Court of Justiciary, nor Sheriff Court, unless such person is learned in the laws of Scotland and meets the other criteria to be prescribed by law.

63. Tenure of Office

(1) Subject to the provisions of this Section and Section 64, judges of the Court of Session, High Court of Justiciary, and Sheriff Courts, shall continue in office for life.

(2) Members of the judiciary shall retire on reaching the retirement age prescribed by law.

(3) Early retirement may be granted by the Judicial Appointments Council on the grounds of illness or infirmity.

64. Removal from Office

(1) Judges of the Court of Session, High Court of Justiciary and Sheriff Courts may be removed from office by a motion of Parliament on the grounds of misconduct, neglect of duty, or incapacity, in accordance with the provisions of this Section.

(2) A motion for the removal of any judge under this Section shall be introduced by the Minister for Justice, acting after having consulted the Judicial Appointments Council.

(3) A motion for the removal of any judge under this Section shall have effect only if it is passed by a two-thirds majority of the members of Parliament present and voting.

(4) The Judicial Appointments Council shall have the authority to suspend a judge, on full pay, for a period of up to three months, pending investigation of alleged misconduct, neglect of duty, or incapacity. If at the conclusion of such period Parliament has not passed a motion for the removal of the said judge in accordance with the provisions of this Section, the judge shall be reinstated without any loss of pay, honour or seniority.

65. Judicial Independence

- (1) Judges shall be independent in the performance of their duties.
- (2) The Judicial Appointments Council shall, subject to any provisions prescribed by Act of Parliament, enact regulations for the protection of judicial independence, by ensuring –
 - (a) The prohibition of judges from holding any elective public office;
 - (b) The prohibition of judges from membership of any political party;
 - (c) The prohibition of judges from undertaking business or commercial activities that may compromise their independence; and
 - (d) The development of a code of judicial ethics.

66. Appeals on Constitutional Matters

- (1) The Court of Session shall have final appellate jurisdiction over all questions concerning –
 - (a) The validity of Acts of Parliament, treaties, and other laws, under the terms of this Constitutional Platform; and
 - (ii) The interpretation of this Constitutional Platform.
- (2) The reference of a bill to the Supreme Court for an advisory ruling under Section (60) shall in no way restrict the right of any person to appeal to the Court of Session under this Section.

67. Prerogative of mercy.

- (1) The Queen’s Commissioner may –
 - (a) Grant a pardon, either free or subject to lawful conditions, to any person convicted of any offence;
 - (b) Grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;
 - (c) Substitute a less severe form of punishment for any punishment imposed on any person for any offence; or
 - (d) Remit the whole or any part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.
- (2) The powers of the Queen’s Commissioner under sub-section (1) shall be exercised in accordance with the advice of the Minister for Justice, given after the Minister for Justice has consulted the Advisory Committee on the Prerogative of Mercy.
- (3) The Advisory Committee on the Prerogative of Mercy shall consist of four members, or such greater number of members as may be prescribed by any law in force in Scotland,

of which –

- (a) At least one shall be a serving or former Minister;
- (b) At least one shall be a medical practitioner entitled to practice in Scotland;
- (c) At least one shall be a person qualified to practice law in Scotland; and
- (d) At least one shall be a serving or former Probation Officer.

(4) The members of the Advisory Committee on the Prerogative of Mercy established under sub-section (3) shall be appointed by the Queen's Commissioner, acting on the advice of the First Minister, given after he has consulted the Public Service Commission.

(5) Subject to the provisions of sub-section (6), the members of the Advisory Committee shall hold office for a period of five years from the date of their appointment.

(6) A member of the Advisory Committee may be removed from office by the Queen's Commissioner by the Queen's Commissioner, on the grounds of misconduct, incapacity, or other due cause, acting on the advice of the First Minister given after he has consulted the Public Service Commission.

Chapter 8. Finance

68. Consolidated Fund

All revenues or other moneys raised or received for the purposes of the Scottish Government (not being revenues or other moneys that are payable by or under any Act into some other fund established for a specific purpose or that may by or under any such law be retained by the authority that received them for the purposes of defraying the expenses of that authority) shall be paid into and form one Consolidated Fund.

69. Withdrawals from Consolidated Fund or other Public Funds

(1) No moneys shall be withdrawn from the Consolidated Fund except –

- (a) To meet expenditure that is charged upon the Fund by this Constitutional Platform or by any other law in force in Scotland; or
- (b) Where the issue of those moneys has been authorised by an appropriation law or in such manner, and subject to such conditions, as may be prescribed in pursuance of Section 71.

(2) No moneys shall be withdrawn from any public fund of Scotland other than the Consolidated Fund unless the issue of those moneys has been authorised by or under an Act of the Parliament of Scotland.

(3) The deposit of any moneys forming part of the Consolidated Fund with a bank or with any other banking institution or the investment of any such moneys in such securities as may be prescribed by the Parliament of Scotland shall not be regarded as a withdrawal of those moneys from the Fund for the purposes of this Section.

70. Authorisation of expenditure

(1) The Minister with responsibility for finance shall cause to be prepared and laid before the Parliament, before or not later than thirty days after the commencement of each financial year, estimates of the revenues and expenditure of Scotland for that year.

(2) The heads of expenditure contained in the estimates for a financial year (other than expenditure charged upon the Consolidated Fund by this Constitutional Platform or any other law) shall be included in a bill, to be known as an appropriation bill, introduced into the Parliament to provide for the issue from the Consolidated Fund and other public funds of Scotland of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the bill.

(3) If in any financial year it is found –

(a) That the amount appropriated by the appropriation law for the purposes included in any head of expenditure is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the appropriation law; or

(b) That any moneys have been expended on any head of expenditure in excess of the amount appropriated for the purposes included in that head by the appropriation law or for a purpose for which no amount has been appropriated by the appropriation law;

Then the Minister with responsibility for Finance shall cause a supplementary estimate showing the sums required or spent to be prepared and laid before the Parliament and the heads of expenditure shall be included in a supplementary appropriation bill introduced in the Parliament to provide for the appropriation of those sums.

71. Authorisation of expenditure in advance of appropriation

If the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister with responsibility for finance may, to such extent and subject to such conditions as may be prescribed by Parliament, authorise the withdrawal of moneys from the Consolidated Fund and other public funds of Scotland for the purpose of meeting expenditure necessary to carry on the services of the Scottish Government until the expiration of four months from the beginning of that financial year or the coming into operation of the appropriation law, whichever is the earlier.

72. Contingencies Fund

(1) There shall be such provision as may be prescribed by Parliament for the establishment of a Contingencies Fund and for authorising the Minister with responsibility for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall be laid before the Parliament, and an appropriation bill shall be introduced therein, as soon as possible for the purpose of replacing the amount so advanced.

73. Remuneration of Members of Parliament and Ministers

(1) The Parliament shall make provision for the payment of salaries to members of the Parliament and members of the Scottish Government.

(2) The Parliament may make provision for the payment of allowances to members of the Parliament or members of the Scottish Government.

(3) The Parliament may make provision for the payment of pensions, gratuities or allowances to, or in respect of, any person who—

(a) Has ceased to be a member of the Parliament or the Scottish Government; or

(b) Has ceased to hold such office, employment or other post in connection with the Parliament or the Scottish Government as the Parliament may determine but continues to be a member of the Parliament or the Scottish Government.

(4) Such provision may, in particular, include provision for—

(a) Contributions or payments towards provision for such pensions, gratuities or allowances,

(b) The establishment and administration (whether by the Parliamentary corporation or otherwise) of one or more pension schemes.

(5) In this section “provision” includes provision—

(a) By an Act of the Parliament of Scotland; or

(b) By a resolution of the Parliament conferring functions on the Corporate Body.

74. Remuneration of Constitutional Officers

(1) There shall be paid to the holders of the offices to which this sub-section applies such salaries and such allowances as may be prescribed by Parliament.

(2) The salaries and any allowances payable to the holders of the offices to which sub-section (1) applies and the remuneration and allowances payable to any judge of the Court of Session, High Court of Justiciary or Sheriff Courts shall be a charge on the Consolidated Fund.

(3) Any alteration to the salary or remuneration payable to any person holding any office to which sub-section (1) applies or to his terms of office, other than allowances, that is to his disadvantage shall not have effect in relation to that person after his appointment unless he consents to its having effect.

(4) Sub-section (1) applies to the offices of –

(a) Queen’s Commissioner;

(b) Lord Advocate;

- (c) Solicitor-General;
- (d) Public Services Ombudsman;
- (e) Auditor-General;
- (f) All judicial offices, except for justices of the peace; and
- (g) All members of the Electoral Commission, Judicial Appointments Council, Public Service Commission, and Advisory Council on the Prerogative of Mercy.

75. Public Debt

- (1) All debt charges for which Scotland is liable shall be a charge on the Consolidated Fund.
- (2) For the purposes of this Section debt charges include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the revenues of Scotland or the Consolidated Fund and the service and redemption of debt thereby created.

76. Auditor-General for Scotland

- (1) There shall be an Auditor General for Scotland who shall be an individual appointed by the Queen's Commissioner on the nomination of the Parliament.
- (2) Subject to the provisions of this sub-section (3) of this Section, the Auditor General shall hold office for a term of five years, and may be re-appointed for one subsequent term.
- (3) The Auditor General may be removed from office by the Queen's Commissioner following a motion of the Parliament praying for his removal, on the grounds of misconduct, neglect of duty, or incapacity, passed by a two-thirds majority of the members of Parliament.
- (4) The public accounts of Scotland and of all courts of law and all authorities and offices of the Scottish Government shall be audited and reported on by the Auditor-General and for that purpose the Auditor-General or any person authorised by him in that behalf shall have access to all books, records, reports and other documents relating to those accounts.
- (5) The Auditor-General shall annually submit and lay his reports before the Parliament.
- (6) In the exercise of his functions under this Constitutional Platform the Auditor-General shall not be subject to the direction or control of any other person or authority.
- (7) In reporting on public expenditures, the Auditor-General may comment not only on the lawfulness and propriety of expenditures, but also on questions of good economy, efficiency and effectiveness.

Chapter 9. Public Service

77. Public Service Commission

(1) There shall be a Public Service Commission for Scotland consisting of five members, who shall be appointed by the Queen's Commissioner, acting on the advice of the First Minister, given after having consulted the leaders of opposition parties in the Parliament.

(2) Subject to the provisions of sub-section (5) of this Section, members of the Public Service Commission shall hold office for a period of five years from the date of their appointment.

(3) A person shall be disqualified for appointment as a member of the Public Service Commission if he is –

(a) A member of Parliament, or a candidate at any parliamentary election;

(b) A public officer; or

(c) A member of any political party.

(4) A person shall not, while he holds or is acting in the office of a member of the Public Service Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office.

(5) The office of a member of the Public Service Commission shall become vacant -

(a) If he becomes disqualified for appointment under sub-section (3) of this Section;

(b) If he tenders his resignation to the Queen's Commissioner, and if the Queen's Commissioner, acting on the advice of the First Minister, given after he has consulted the leaders of the opposition parties in Parliament, accepts such resignation.

(c) If he is removed from office by the Queen's Commissioner following a motion of the Parliament praying for his removal, on the grounds of misconduct, neglect of duty, or incapacity, passed by a two-thirds majority of the members of Parliament.

(6) The Queen's Commissioner, acting on the advice of the First Minister, shall designate one member of the Public Service Commission to serve as Convenor of the Commission, and shall, during the absence or incapacity of the Convenor, designate another member to serve as Deputy Convenor.

(7) If there is any vacancy in the membership of the Public Service Commission, the Queen's Commissioner shall appoint a person to fill the vacancy, acting in accordance with sub-section (1) of this Section.

Provided, that until such member of the Commission is appointed, the Public Service Commission may perform its functions notwithstanding any vacancy.

(8) In the exercise of its functions under this Constitutional Platform or any law the Public Service Commission shall not be subject to the direction or control of any other person or authority.

78. Appointment etc of Public Officers

(1) Subject to the provisions of this Constitutional Platform, and to any general rules concerning the recruitment, selection, pay, pensions, privileges, discipline and removal from office of public servants prescribed by law, the power to make and confirm appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices is vested in the Public Service Commission.

(2) The Public Service Commission may, subject to such conditions as it thinks fit, delegate any of its powers under this section by directions in writing to any member of the Commission or to any public officer.

(3) The provisions of sub-sections (1) and (2) this Section shall apply to officers of the Scottish Civil Service and, except as otherwise prescribed by this Constitutional Platform or by any law in force in Scotland, to all other officers in the service of the Scottish Government or of any Scottish public body.

(4) The provisions of sub-sections (1) and (2) of this Section shall not apply to –

- (a) Officers of any local Council or other locally elected body;
- (b) Officers of Parliament and employees of the Parliamentary Corporate Body; or
- (c) Judicial officers, or officers of any Court in Scotland;
- (d) Members of the Scottish Police Authority; or
- (d) Officers of the Coast Guard or Scottish Defence Force.

79. Appointment of Permanent Secretaries

Power to make appointments to the office of Permanent Secretary, and to other offices of Permanent Secretary rank, shall be vested in the Queen's Commissioner, acting on the advice of the First Minister, given after consultation with the Public Service Commission.

80. Royal and Household Appointments

The Queen's Commissioner, acting according to his personal judgment and discretion, shall have the authority to appoint –

- (a) Members of the personal staff or retinue of the Queen's Commissioner; and
- (b) Officers of the Royal Household in Scotland.

81. Public Services Ombudsman

(1) There shall be a Public Services Ombudsman, whose duty it shall be to investigate complaints made against the public service or public bodies in Scotland on behalf of the public.

(2) The Public Services Ombudsman shall be appointed by the Queen's Commissioner on

the nomination of the Parliament.

(3) Subject to the provisions of this sub-section (3) of this Section, the Public Services Ombudsman shall hold office for a term of five years, and may be re-appointed for one subsequent term.

(4) The Public Services Ombudsman may be removed from office by the Queen's Commissioner following a motion of the Parliament praying for his removal, on the grounds of misconduct, neglect of duty, or incapacity, passed by a two-thirds majority of the members of Parliament.

(5) Subject to the provisions of this Constitutional Platform, the Public Services Ombudsman shall have the power to -

(a) Enquire into the conduct of any person in the exercise of his office or authority, or abuse thereof; and

(b) Make recommendations to rectify complaints, to assist in the improvement of the practices and procedures of public bodies, and to eliminate arbitrary and unfair decisions.

(6) The Public Services Ombudsman shall not inquire into the decisions or actions of any Court or judicial decision, nor, until otherwise provided by Act of Parliament any matter referred to in the Fourth Schedule of the Scottish Public Services Ombudsman Act, 2002.

(7) The Public Services Ombudsman shall annually submit and lay his reports before the Parliament.

(8) In the exercise of his functions under this Constitutional Platform or any law the Public Services Ombudsman shall not be subject to the direction or control of any other person or authority.

Chapter 10. Local Government

82. Local Authority Areas

For the purposes of local self-government, the territory of Scotland shall be divided and sub-divided into such number of cities, regions, counties, burghs, communities, and other local authority areas as may from time to time be determined by law:

Provided, that until otherwise determined by law, the existing unitary authorities, having the boundaries established by the Local Government (Scotland) Act, 1996, shall continue in being.

83. Local Elections

(1) Subject to the provisions of this Section, Parliament shall by law determine the duties, powers, responsibilities, organisation, composition and functioning of local authorities

(2) Each local authority shall be administered by a democratically elected Council consisting of a Convenor, Provost or Lord Provost and at least eighteen Councillors.

- (3) Elections for local Councils shall be conducted by proportional representation;
- (4) Elections for local Councils shall be held at intervals not greater than four years;
- (5) Every person who has the right to vote at an election for members of Parliament shall have the right to vote at an election for members of the local Council of their locality.

Chapter 11. External Relations

84. Treaties and International Agreements

- (1) Subject to any provisions prescribed by law, the Scottish Government may enter into relations with other states, may appoint ambassadors, high commissioners, and other such representatives, and may negotiate treaties and other agreements with foreign states and with international organisations.
- (2) No treaty or other international agreement shall affect the borders of Scotland, its maritime claims, its domestic law, its financial arrangements, or the rights and duties of Scottish citizenship, unless such treaty or agreement is adopted into domestic law by an Act of Parliament.
- (3) Treaties or agreements binding Scotland into membership of a union, alliance, or confederation, or substantially changing the nature of any such membership, must be ratified by a two-thirds majority of members of Parliament.

85. Shared Service Agreements

- (1) Provision may be made by agreement between the Scottish Government and the United Kingdom Government for the provision of services in Scotland by the United Kingdom Government or any agency or department thereof.
- (2) Agreements under this Section, in so far as they affect the law of Scotland, shall come into effect only after enabling legislation has been enacted by the Parliament of Scotland.

86. European Union

- (1) Scotland accepts all rights and duties of continued European Union membership.
- (2) Subject to the provisions of sub-section (3) of Section 84, the Single European Act shall continue to apply in Scotland.

87. Commonwealth and United Nations

It shall be incumbent upon the Scottish Government to pursue with all alacrity Scotland's admission to the Commonwealth and the United Nations.

88. British-Irish Council

Scotland shall be represented as an independent state in the British-Irish Council.

Chapter 12. Miscellaneous Provisions

89. Coast Guard and Scottish Defence Force

- (1) There shall be a Coast Guard and a Scottish Defence Force.
- (2) The Coast Guard shall have responsibility for –
 - (a) The defence of Scotland’s territorial waters and coasts;
 - (b) Fishery protection;
 - (c) The protection of off-shore assets;
 - (d) Air-sea rescue;
 - (e) Meteorological services;
 - (f) The prevention of smuggling, trafficking by sea, and piracy; and
 - (g) Associated duties specified by law.
- (3) The Scottish Defence Force shall have responsibility for –
 - (a) Protecting Scotland from enemy attack in time of war or threat of invasion;
 - (b) Contributing to international peacekeeping and security forces in accordance with international law;
 - (c) Contributing to collective defence in accordance with treaty commitments;
 - (d) Ensuring the protection of essential infrastructure and the safety of civilian populations in event of a natural disaster, epidemic, attack, or other calamity; and
 - (e) Providing assistance to Fire and Rescue services, ambulance services, and other civilian emergency services when required and authorised by the Scottish Government.
- (4) Subject to this Constitutional Platform and any other provisions prescribed by law, the Coast Guard and Scottish Defence Force shall be under the supreme command of the Scottish Government, acting through the Minister of Defence.
- (5) Parliament shall provide by law for the regulation, order, discipline, funding, recruitment, and administration, of the Coast Guard and Scottish Defence Force.
- (6) No war may be declared, nor military action engaged in otherwise than in immediate defence against enemy attack, nor armed force deployed abroad on active service, unless authorised by a resolution of Parliament passed by an absolute majority of its members.

90. Electoral Commission

- (1) There shall be an Electoral Commission for Scotland consisting of seven members, who shall be appointed by the Queen’s Commissioner -

- (a) Two shall be appointed on the advice of the First Minister;
 - (b) Two shall be appointed on the advice of the Presiding Officer, given after having consulted the leaders of opposition parties in the Parliament; and
 - (c) Three shall be appointed on the advice of the Public Service Commission, of which –
 - (i) Two shall be public officers, qualified and experienced in the conduct of elections; and
 - (ii) One shall be a former judge who is learned in electoral law.
- (2) Subject to the provisions of sub-section (6) of this Section, members of the Electoral Commission shall hold office for a period of five years from the date of their appointment.
- (3) A person shall be disqualified for appointment as a member of the Electoral Commission if he is –
- (a) A member of Parliament, or a candidate at any parliamentary election; or
 - (b) The brother, sister, husband, wife, father, mother, son, daughter, nephew, niece, or first cousin, business partner, cohabitee, or of a member of Parliament or a candidate at any parliamentary election.
- (4) For the purposes of sub-section (3), relations by marriage or re-marriage, and relations by adoption, shall be treated in the same way as relations by birth.
- (5) A person shall not, while he holds or is acting in the office of a member of the Electoral Commission or within a period of five years commencing with the date on which he last held or acted in that office, be eligible for appointment to or to act in any public office, or to be a candidate for any parliamentary election.
- (6) The office of a member of the Electoral Commission shall become vacant -
- (a) If he becomes disqualified for appointment under sub-section (3) of this Section;
 - (b) If he tenders his resignation to the Queen’s Commissioner, and if the Queen’s Commissioner, acting on the advice of the First Minister, given after he has consulted the leaders of the opposition parties in Parliament, accepts such resignation.
 - (c) If he is removed from office by the Queen’s Commissioner following a motion of the Parliament praying for his removal, on the grounds of misconduct, neglect of duty, or incapacity, passed by a two-thirds majority of the members of Parliament.
- (7) The Queen’s Commissioner, acting on the advice of the Presiding Officer, shall designate one member of the Electoral Commission to serve as Convenor of the Commission, and shall, during the absence or incapacity of the Convenor, designate

another member to serve as Deputy Convenor.

(8) If there is any vacancy in the membership of the Electoral Commission, the Queen's Commissioner shall appoint a person to fill the vacancy, acting in accordance with subsection (1) of this Section.

Provided, that until such member of the Commission is appointed, the Electoral Commission may perform its functions notwithstanding any vacancy.

(9) The Electoral Commission shall be responsible, in accordance with this Constitutional Platform and the law, for the direction and supervision of the registration of voters and the conduct of elections, and all matters connected therewith.

(10) The Electoral Commission shall have the authority to make recommendations to the Parliament of Scotland with respect to the suppression of corrupt practices, the funding of elections, the disclosure of political donations, and the financing of parties, referendums and election campaigns.

(11) In the exercise of its functions under this Constitutional Platform or any law the Electoral Commission shall not be subject to the direction or control of any other person or authority.

91. Civic Honours

(1) The Queen's Commissioner, in accordance with this Constitutional Platform and any subsequent legislation, may award civic honours in the name and on behalf of the people of Scotland.

(2) Honours granted under this Section shall not be hereditary and shall not entitle the bearer to any special privileges; unless otherwise provided by law, honours shall not be accompanied by any pension or other financial reward.

(3) Subject to any provisions prescribed by law, the Queen's Commissioner shall exercise his powers under this Section according to his own personal judgment and discretion.

92. States of Emergency

(1) If the Queen's Commissioner, acting on the advice of the First Minister, is satisfied that a grave emergency exists whereby the security of Scotland is threatened he may, by public proclamation, declare that a state of emergency exists.

(2) Before tendering such advice to the Queen's Commissioner, the First Minister shall, so far as it is practicable to do so, consult with the Presiding Officer, the Lord President of the Court of Session, and the leaders of the opposition parties in Parliament.

(3) A declaration of emergency lapses –

(a) If the declaration is made when Parliament is sitting, at the expiration of seven days after the date of publication of the declaration; or

(b) in any other case, at the expiration of twenty-one days after the date of publication of the declaration

unless it has in the meantime been approved by a resolution of Parliament approved by a majority of the members of Parliament present and voting.

(4) The Queen's Commissioner shall revoke a declaration of emergency –

(a) If so advised by the First Minister; or

(b) If, acting on his own personal judgment and discretion, he is convinced that there is no longer sufficient reason to keep the state of emergency in effect.

(3) A declaration of emergency that has been approved by a resolution of Parliament under sub-section (2) of this Section remains in force, subject to the provisions of sub-section (3), for three months or such shorter period as is specified in the resolution.

(4) A provision of this Section that a declaration of emergency lapses or ceases to be in force at a particular time does not prevent the making of a further such declaration whether before or after that time.

Provided, that a declaration of emergency shall not be renewed without the prior consent Parliament, by means of a motion passed by a two-thirds majority of the members thereof.

(5) During the period during which a declaration of emergency is in force, the Scottish Government, or any Minister or officer thereof to whom such authority may be delegated by the First Minister, may make such orders as are reasonably required for securing public safety, maintaining public order or safeguarding the interests or maintaining the welfare of the community.

(6) An order made under sub-section (5) of this Section shall have the force of law.

(7) An order made under sub-section (5) of this Section shall not, however, be valid or binding if it exceeds the reasonable restrictions which may be placed on fundamental rights and freedoms in accordance with the provisions of Chapter 2 of this Constitutional Platform.

(8) An order made under sub-section (5) of this Section lapses when the declaration of emergency lapses unless the order is sooner revoked by the authority which issued the order or by a resolution of Parliament approved by a majority of the members thereof.

93. Oaths of Office and Allegiance

(1) Every member of Parliament on taking their seat shall be required to take the following oath of allegiance:

‘I [full name] do swear that will be faithful and bear true allegiance to the people, according to the Constitutional Platform and laws of Scotland. (So help me God)’

(2) Every Minister of the Scottish Government shall, on appointment, be required to take the following oath of office:

‘I [full name] solemnly swear/affirm that I will faithfully and conscientiously perform my duties as (First Minister / Minister for [department or portfolio]) in accordance with the Constitutional Platform and laws of Scotland, without fear or favour. (So help me God).’

(3) Every person appointed to a judicial office in Scotland shall, on appointment, be required to take the oath of allegiance specified in sub-section (1) of this Section and the following oath of office:

‘I will do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill-will. (So help me God).’

(4) Every person appointed to the Advisory Committee on the Prerogative of Mercy, the Public Service Commission, the Judicial Appointments Council, Electoral Commission, or to the office of Public Service Ombudsman or Auditor-General, or as a member of the Scottish Police Authority, or to any other public office, shall be required to take, in addition to the oath of allegiance specified in sub-section (1) of this Section, such oath of office, if any, as may be required by law.

(5) Oaths may be taken with or without religious invocation.

94. Interpretation

(1) In this Constitutional Platform, unless the context otherwise requires it, or unless explicitly stated otherwise -

‘Act of Parliament’ means any law made by Parliament;

‘Consolidated Fund means the Consolidated Fund established by Section 68;

‘Court’ means any court or judicial tribunal having jurisdiction in Scotland;

‘existing law” means a law in force in Scotland immediately before this Constitutional Platform comes into effect;

‘judge’ means any person holding judicial office in Scotland, including part-time or temporary appointments, but excluding justices of the peace;

‘law’ includes any instrument having the force of law and any unwritten rule of law, and ‘lawful’ and ‘lawfully’ shall be construed accordingly;

‘Parliament” means the Parliament of Scotland;

‘Person’ means a human being;

‘Presiding Officer’ means the Presiding Officer of the Parliament of Scotland;

‘public office’ means any office of emolument in the public service;

‘public officer’ means the holder of any public office and includes any person appointed to act in any such office;

‘the public service’ means service of the Crown in a civil capacity in respect of the Scottish Government;

‘session’ means, in relation to Parliament, the period from the first meeting of Parliament after a general election until the dissolution of that Parliament;

‘Sheriff’ means any Sheriff Principal, Sheriff, or part-time Sheriff, including ‘resident’ and ‘floating’ Sheriffs.

‘sitting’ means, in relation to Parliament, a period during which Parliament is sitting continuously without adjournment and includes any period during which the Parliament is in committee;

‘United Kingdom Parliament’ means the Parliament of the United Kingdom;

‘United Kingdom Government’ means Her Majesty’s Government in the United Kingdom;

(2) For the purposes of this Constitutional Platform the territory of Scotland shall compose all the areas over which the Scottish Courts have jurisdiction.

(3) Any reference in this Constitutional Platform to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion or transfer to that office and the power to appoint a person to act in or perform the functions of that office during any period during which it is vacant or during which the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions.

(4) Any reference in this Constitutional Platform to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully performing the functions of that office.

(5) For the purposes of this Constitutional Platform a person shall not be considered as holding a public office by reason only of the fact that he is in receipt for a pension or other like allowance in respect of public service.

Chapter 13. Transition and Amendment

95. Transitional Provisions

(1) The Scottish Parliament elected in May 2011 shall remain in being as the Parliament of Scotland under this Constitutional Platform, and shall continue as such until it is dissolved in accordance with the provisions of this Constitutional Platform; provided, that the duration of this sitting Parliament shall be five years, with the first ordinary elections due in May 2016.

(2) The rules and orders of Parliament in force immediately before the commencement of this Constitutional Platform, shall, to the extent that they can mutatis mutandis be applied in respect of the business and proceedings of Parliament under this Constitutional Platform, continue in force until amended or replaced as herein provided.

(3) The Scottish Government in office on the day on which the Constitutional Platform comes into effect shall remain in office as the Government of Scotland under this

Constitutional Platform until such time as it resigns or is removed from office in accordance with the provisions thereof.

(4) A person who immediately before the commencement of this Constitutional Platform held a public office in Scotland or was employed within the public sector in Scotland, shall after commencement continue in such office or employment, subject to and in accordance with the applicable laws regulating such office or employment.

(5) With the exception of any rules of law inconsistent with this Constitutional Platform, every rule of law which is in force in Scotland at the date at which this Interim Constitution Platform comes into force shall remain in force until such time, if any, as it is repealed or amended by Act of Parliament or other competent legislative act.

96. Power to Amend Constitutional Platform

(1) Subject to the provisions of this Section, the Parliament of Scotland may by Act of Parliament amend any provision of this Constitutional Platform.

(2) No bill for the amendment of this Constitutional Platform shall be deemed to have been passed by the Parliament of Scotland unless such bill is approved, on its final reading, by a two-thirds majority of the total membership of Parliament.

(3) In so far as it amends:

- (a) Sections 1 to 19 inclusive;
- (b) Sections 23, 24 or 27;
- (c) Sections 28 to 32 inclusive;
- (d) Sections 38 to 43 inclusive;
- (e) Section 57;
- (f) Sections 63 to 66 inclusive;
- (g) Sections 84 to 88 inclusive;
- (h) Sections 90, 92, 93 or 94; or
- (i) this Section -

a bill for the amendment of this Constitutional Platform shall not be presented for Royal Assent unless it has been referred to the qualified electors in a national referendum and approved by a majority of the votes cast; such referendum shall take place not less than three, nor more than six months after its passage through the Parliament in the manner specified in sub-section 2 of this Section.

(4) Subject to the provisions of this Constitutional Platform, Parliament shall make provision by law for the process and conduct of constitutional referendums.