

### **[Item 1 – Extracts from briefing document]**

The SNP manifesto of 2021, and the subsequent Scottish Government Programmes for Government, pledged to provide the people of Scotland with the information they need to make an informed choice on Scotland's constitutional future. The BANS series of papers is intended to deliver on those commitments. The series was also intended to supplement discussion on the process for securing an independence referendum with material to support a discussion on the policy substance of independence.

[Redacted]

### **[Item 2 – Extract from briefing document]**

Believe in Scotland: A campaigning organisation for Scottish independence, managed by Business for Scotland. It is advised by a Steering Group consisting of elected representatives from 17 regions across Scotland and representatives from nine national campaigns.

### **[Item 3 – Extract from briefing document]**

Ms Regan is proposing a Member's Bill on a referendum on whether the Scottish Parliament should have the power to negotiate and legislate for Scottish independence.

### **[Item 4 – Extracts from briefing document]**

#### **People in Scotland have given a clear mandate for a referendum on independence.**

- In repeated elections both to the Scottish Parliament and to Westminster – in 2016, 2017, 2019 and most recently in May 2021 – people in Scotland have elected majorities of MSPs and MPs that support a referendum.
- In May 2021, 72 of the 129 MSPs were elected on manifestos that commit them to a referendum on Scottish independence during this Parliament.
- I am pleased that a majority of members elected to this Parliament by the people of Scotland backed a motion in January 2023 calling on the UK Government to respect the right of people in Scotland to choose their constitutional future.
- I stand ready to engage at any point with the UK Government to begin talks about the change to the Scottish Parliament's powers to allow the Scottish people to choose their future.
- In fact, polling also shows considerably more people believe that we should not need permission from the UK Government to hold a referendum at all, than think that we should need to (Source: YouGov, June 2023 – 50% say should not need permission; 40% say should; 10% don't know).
- Unlike the EU referendum in 2016, voters will have the information available to allow them to understand what they are voting for in good time before the referendum takes place.

- And the most recent poll on how people would vote in a second referendum found 67% saying they would vote to remain in the EU (excluding don't knows) (Survation, fieldwork 10-12 Jan 2023)
- The Supreme Court was not asked to decide, and cannot decide, whether the Scottish Parliament should have the power to hold an independence referendum.
- All it was asked to rule on was the law relating to one route to a referendum: legislation in the Scottish Parliament.
- The UK Government has already accepted that a mandate for an independence referendum can be given to the Scottish Parliament. It accepted that in 2011 and agreed the process that led to the 2014 Referendum.
- If people in Scotland's right to choose is to mean anything, it must allow the people of Scotland, as an electorate, to decide to have a referendum.
- No matter how the people of Scotland vote, or how often they elect parliaments that support a referendum and support independence, they can be told 'no' by the UK Prime Minister.
- Under an arrangement called the Common Travel Area, people would be able to move freely across the UK and Ireland as now. It is in all parties' interests for that to continue in the event of Scottish independence.

[Redacted]

#### [Item 5 – Extracts from briefing document]

#### **But you can't guarantee this arrangement?**

The Common Travel Area between Ireland and the UK was in existence before both countries joined the EU and it has continued despite Brexit. There is no reason to believe Scottish independence will change that. Indeed, commentators widely expect these arrangements to continue in the event of an independent Scotland.

#### **Will Scotland sign the Schengen agreement?**

An independent Scotland would adopt what is called the Schengen acquis in so far as it concerns cooperation between police, customs and border authorities, and dealing better with illegal immigration. Under an arrangement called the Common Travel Area (CTA) Scotland would also retain freedom of movement with the UK and Ireland. Ireland, as an EU member state, is part of the CTA, which is a long-standing arrangement recognised in EU Treaties. Scotland's geography lends itself to a similar arrangement in the event of Scottish independence. Being part of the CTA would mean being outside of the 'Schengen Zone' (see below).

#### **Will there be a referendum on the terms of the EU membership?**

That's not the Scottish Government's policy. We believe that the right way to proceed is to ask people whether they want Scotland to be independent or not and to provide them with

the information to underpin that choice. In the 2016 EU referendum, a decisive majority of Scots voted to remain in the EU and the ambition to rejoin the EU has been a fundamental part of the drive for Scotland's independence. This Scottish Government therefore does not consider a further referendum – on joining the EU – is desirable or necessary.

The exact terms of Scotland's EU membership would be approved through the Scottish Parliament.

### **Why is this material important when there is no independence referendum scheduled?**

The Scottish Government was elected on a mandate to make the case for independence. We are committed to providing the people of Scotland with the information they need to make an informed choice about their constitutional future, and are doing so, including through the Building a New Scotland series of papers.

The First Minister has affirmed that the Scottish Government continues to seek the transfer of powers from the UK Parliament to enable a lawful referendum.

### **What will happen next on a referendum? What will the Scottish Government do if this and future UK Governments continue to say 'no' to a referendum?**

The First Minister has affirmed that the Scottish Government continues to seek the transfer of powers from the UK Parliament to enable a lawful referendum.

### **What is the Scottish Government's position on Ash Regan MSP's proposed Bill, proposing legislation for a vote asking if the people of Scotland believe Holyrood's powers should be extended to legislate and negotiate independence?**

This Parliament has a clear mandate to hold a referendum on independence from the last election.

Last year, the Parliament passed a motion calling on the UK Government to respect the right of people in Scotland to choose their constitutional future. The Scottish Government continues to seek the transfer of powers from the UK Parliament to enable another lawful referendum, in line with the judgment of the Supreme Court.

It is understood that Ms Regan proposes to lodge with the Clerk a draft proposal for a member's bill. The Government would then consider the draft proposal in the usual way.

### **Has SG undertaken an Economic Impact Assessment on the prospectus proposals, including the economic and other impacts of leaving the UK?**

The development of the BANS papers reflects analytical considerations of the potential impact of their proposals, to ensure the people of Scotland have the information needed to make an informed choice about their constitutional future. As the nature of the prospectus papers propositions are conditional on the outcome of a referendum and subsequent negotiations, they do not engage any statutory duties in respect of impact assessments.

### **'Building a New Scotland' series**

People in Scotland have voted for a Parliament with a clear majority in favour of independence and with a mandate for an independence referendum.

There is now a substantial majority in the Scottish Parliament in favour of, and elected on, a clear commitment to giving the people of Scotland the choice of independence through a referendum.

### **[Item 6 – Extract from briefing document]**

**[Item 7 – Extract from briefing document]**

- In fact the next consideration was in the development of the 2020 Programme for Government commitment to publish a draft bill for an independence referendum before the end of that Parliament. That work was done in early 2021, drawing mainly on pre-pandemic work, and the draft bill was published in March 2021.
- Other than this, the Scottish Government undertook no proactive work on independence from mid March 2020 until after the next Programme for Government in September 2021.
- Reactive work had of course to continue to respond to correspondence, FOIs and PQs, and to respond to the Keatings v Scottish Ministers litigation about the powers of the Parliament to hold a referendum.

**[Item 8 – Extract from briefing document]**

**What defence and security assets would an independent Scotland look to inherit during independence negotiations?**

Following a vote for independence, this Scottish Government would negotiate with the UK Government to ensure the defence and security of both countries from the date of independence. It will be in both countries' interests to establish from the outset a constructive and enduring partnership.

Following negotiations, an independent Scotland would inherit significant military establishments and infrastructure. A 2014 House of Lords Constitution Committee report on the constitutional implications of Scottish independence noted that “It is a legal principle that fixed or immovable assets (such as government or military buildings) would automatically become assets of the state in which they are located.” These establishments would support the armed forces of an independent Scotland and, with agreement, would also continue to be available to our international partners. The priority will be for Scotland to secure the land, air and maritime capabilities -personnel and assets – that are required to protect our territory, people and national interests.

- The UK Government has already accepted that a mandate for an independence referendum can be given to the Scottish Parliament. It accepted that in 2011 and agreed the process that led to the 2014 Referendum.
- If people in Scotland's right to choose is to mean anything, it must allow the people of Scotland, as an electorate, to decide to have a referendum.
- No matter how the people of Scotland vote, or how often they elect parliaments that support a referendum and support independence, they can be told 'no' by the UK Prime Minister.
- The Supreme Court was not asked to decide, and cannot decide, whether the Scottish Parliament should have the power to hold an independence referendum.
- All it was asked to rule on was the law relating to one route to a referendum: legislation in the Scottish Parliament.

**[Item 9 – Extract from briefing document]**

## **People in Scotland have given a clear mandate for a referendum on independence.**

- The majority of MSPs in this chamber were elected on manifestos that commit them to a referendum on Scottish independence during this Parliament.
- In repeated elections both to the Scottish Parliament and Westminster, people in Scotland have elected majorities of MSPs and MPs that support a referendum.

### **[Item 10 – Extract from briefing document]**

#### **Given the judgment from the Supreme Court in 2022, there is unlikely to be a referendum anytime soon, so why is the Scottish Government still continuing with independence related work?**

The Scottish Government was elected on a mandate to give the people of Scotland the information they need to make an informed choice about their future, and that's what we are doing. As the member will be aware, earlier this year, a majority of MSPs backed a motion calling on the UK Government to respect the right of people in Scotland to choose their constitutional future. The First Minister has reaffirmed to the Prime Minister that the Scottish Government continues to seek the transfer of powers from the UK Parliament to enable another lawful referendum, consistent with the judgment of the supreme Court.

### **[Item 11 – Extract from briefing document]**

- In the 2021 Scottish Parliament election, the people of Scotland have elected a majority of MSPs that support a referendum.