



Scotland's
independence

referendum:

Your business,
your vote



UNIVERSITY OF EDINBURGH
Business School



Federation of Small Businesses
The UK's Leading Business Organisation

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FOREWORD

In September Scotland votes on whether to become an independent country, or to remain part of the United Kingdom. Throughout the campaign, the FSB has made clear that we will maintain a neutral stance, but will strive to place small business issues at the heart of the debate and ensure our members have the best available information to inform their decision.

Earlier this year we conducted a survey of you, our members in Scotland, to understand your hopes, concerns and wider views around the referendum debate. You told us you were disappointed in the level of debate; that a significant minority of you could still have your position swayed by new information; and that you wanted to hear more about the practical issues affecting small businesses.

This report therefore aims to provide the most relevant information available on the issues you told us were most important. However, with the outcome of so many issues subject to future negotiations – what currency would be used, membership of the EU – it has proved impossible to give definite answers to many questions.

Instead, we have sought to explain the different options and provide our best informed estimate of the likely outcome.

I hope it makes valuable reading and helps you decide where to put your cross on 18 September.

Andy Willox OBE
Convenor, Scottish Policy Unit
Federation of Small Businesses



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On September 18, 2014, Scots will vote on whether to become an independent nation, or remain part of the United Kingdom. As the independence debate has intensified over the past few months, the people of Scotland have been asking what such a historic choice might mean for them, their families and work. The questions that those running small businesses have and their views are particularly important given that they make up almost 99% of all businesses in Scotland. Yet, many of the questions and views of those running small businesses have been competing with the noise of the wider economic and political independence debate.

The FSB and the University of Edinburgh Business School have come together to investigate these views and questions and, where possible, to provide some answers. Our survey of almost 1800 small businesses was designed to provide objective, politically-neutral information for FSB members. Our survey was conducted between April and May 2014. As far as we're aware, this is the largest poll conducted of business so far.

Our survey shows that almost three quarters of Scottish businesses have been proactive about searching for information that can help to inform their decision, but they have not found information available from the political campaigns to be useful. It is, therefore, not surprising that two in five small businesses indicate that their vote could be swayed by new information in the run-up to the referendum. The research also reveals that business decisions in one in five small businesses have been influenced by the referendum debate over the past year. More than a third of respondents suggest independence would change the way they run their businesses.

What is interesting about the results of this survey is that, while small businesses are more concerned about the practicalities of independence – how it might work – rather than some of the macro-economic issues, responses to the survey questions don't differ markedly from other surveys that have focused on larger businesses. For instance, the opportunities

of independence tend to relate to more access to government, or tailoring economic policy to the needs of the Scottish economy, whereas the risks tend to emphasise more specific business-related issues such as operational costs, access to customers, or the implications of independence for cross-border trade.

The major uncertainties facing small businesses are also broadly consistent with larger businesses and across industries. They include the currency, tax rates, regulation, EU membership, and uncertainty during any transition period. Half of businesses indicate independence might present opportunities, half of businesses are unable to identify any opportunities independence might bring, and 10% suggest that they could withdraw from the Scottish economy. More small businesses than larger businesses – around a quarter – believe that independence could be good for their business.

We have been delighted to have worked with the FSB on this important project, and while we are not able to answer all the questions the survey raised, we hope that it will serve as a useful source of information in the run-up to the referendum.

Professor Brad MacKay,
University of Edinburgh Business School



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INTRODUCTION

In the Scottish parliamentary elections of May 2011, the Scottish National Party won a majority in parliament and a second term of government. The party had, of course, set out in its manifesto that it believed Scotland could be more successful if independent and made clear its intention to hold a referendum on the matter.

Throughout the referendum campaign, the FSB has listened to the case of both sides, sought feedback from you, our members, and highlighted the issues that matter to small businesses. You told us that there was not enough information about how independence would impact on your daily business and other practical issues. As a result, the FSB, working in conjunction with the University of Edinburgh Business School, has produced this report, setting out the most relevant and up to date information.

This report has two aims. First, it aims to reflect perspectives on the referendum from FSB members in Scotland, setting out responses to a survey conducted in April-May 2014. In doing so, it will identify the main issues which are relevant in the debate for FSB members. The second aim of this report is to provide members with information and greater clarity on questions they have raised relating to the referendum.

The FSB and the University of Edinburgh are strictly neutral bodies and profess no position for or against Scottish independence. This report is designed to provide unbiased information as informed by knowledge of business operations and decision-making factors, as well as perspectives provided by different parties who have joined the independence debate. Because of the nature of the referendum debate and the issues associated with it, there is a lack of clarity and

certainty on many issues. While this report attempts to address this, it does not aim to – and cannot – resolve the uncertainty that remains.

This report is structured as follows. Part 1 outlines the results of the survey conducted with FSB members. Part 2 attempts to address some of the complexities and questions raised by members. This latter part is divided into three sections: The Referendum and Independence, Macro Issues, and Daily Practicalities. The overall aim is to provide FSB members with further unbiased information on key issues prior to the vote.

SURVEY RESULTS

Part 1 of this report presents the results of a survey emailed to FSB members in Scotland throughout April and May with over 1800 respondents.

PROFILE OF SURVEY RESPONDENTS

In total, 1,826 FSB members responded to the online survey which was conducted during April and May 2014. Respondents were spread across all local authority areas and business sectors. The majority were male (73%), aged between 45 and 64 (65%), and had 5 or fewer employees in their business (73%).

Regarding customer base, 43% of respondents had most customers in the local and regional area. However, almost 20% had most customers in the rest of the UK, while just 12% had no customers in the rest of the UK.

Regarding supplier location, 33% had most suppliers located in the local and regional area. However, a similar number (27%) had most suppliers based in the rest of the UK, while just 8% had no suppliers in the rest of the UK. When asked about the processes and paperwork for dealing with suppliers from outside the UK, a significant majority (66%) stated that it was about the same as dealing with suppliers within the UK.

While the majority of respondents did not export outside the UK, a significant minority did (17%). Almost 70% travelled to the rest of the UK for business at least once a year, and just over 30% travelled to the rest of the EU for business at least once a year.

VIEWS ON THE REFERENDUM DEBATE

In relation to the referendum debate itself, 58% of members regard the quality as poor or very poor. A significant majority (73%) have proactively searched for information relating to the referendum, with the most popular sources of information being television (74%), newspapers (73%), website (56%), and radio (51%).

Members discuss the referendum most with friends and family (often and very often: 73%), then business colleagues and employees (often and very often: 50%). However, only a minority often or very often discuss the issue with customers and suppliers (32%).

91% are aware of the Scottish Government's White Paper on independence. Of those who have read it, more have found it not useful (58%) than useful (42%). Conversely, just half of respondents (50%) are aware of the UK Government's papers relating to independence. Again, of those who have read them, more have found them not useful (54%) than useful (46%).

60% of respondents have made up their mind about how to vote and have no intentions of changing, while 27% believe they have made up their mind but are open to changing if further information becomes available. 13% have not yet decided but intend to vote. This means that there are 40% of respondents who could potentially be swayed by further information from the campaigns.

It is clear that business issues alone will not determine how business owners will vote. When asked about to what extent business issues and issues not directly related to their own business will affect their decision, the majority (57%) said that both will be a factor. A quarter of respondents said that, while business issues were important, others, such as the quality of public services, will be of greater influence. Only 18% said business issues were most important.

Respondents identify a broad range of issues as being very important to them, indicating that they see the implications as wide reaching. Most commonly, they rated the following as quite or very important: the opportunities and risks for the Scottish economy (97%); the business environment, including taxes and regulation (95%); the future of public services, such as the NHS and education (93%), and personal finance, including income tax and pensions (92%).

VIEWS ON IMPACT ON BUSINESS

While a majority of respondents believe that independence would affect the day-to-day running of their business (67%), just 38% of respondents would expect to change their business operations or plans in the event of a 'yes' vote. 18% believe the referendum has already influenced a business decision that has been taken, or postponed, in the last 12 months.

Analysing different categories of respondents, 56% of exporters expect to change business operations or plans if Scotland becomes independent, compared to 35% of non-exporters who expect to change operations or plans. While just 14% of those with most or all of their customers in their local/regional area have postponed business decisions in the last 12 months due to the independence referendum, this rises to 30% of those with very few or no customers in their local/regional area. These results suggest that those with businesses with greater geographical reach expect greater changes related to Scottish independence.

In relation to effects, while over a quarter (27%) of respondents say they are very excited about the opportunities of independence, over half say they are very concerned about risks (54%). In the comments section of this question, 134 members volunteered that they would consider or would definitely be relocating their business outside of an independent Scotland, while a further 51 stated that they would look to close, downsize, sell, or retire early. This totals 185 respondents (10%) who would consider withdrawing their business from the Scottish economy.

The main business opportunities associated with an independent Scotland were policies better suited to Scottish businesses (41%) and a stronger economy (30%). However 51% noted that they saw no opportunities. The main business risks were different tax and regulatory regimes to the rest of the UK (rUK) (60%), uncertainty in the transition (59%), and a weaker economy (56%).

The most popular currency option was retaining Sterling and remaining in a formal currency union with rUK, with 86% seeing this as having a positive or no impact and only 8% seeing it as having a negative impact. In contrast, all other options were seen as largely negative: retaining Sterling without formal currency union (48% negative), creating a new Scottish currency (58% negative), and joining the Eurozone (63% negative).

A significant majority (62%) would opt for more powers for the Scottish Parliament in the event of a 'no' vote.

Part 2

REFERENDUM AND INDEPENDENCE INFORMATION

Throughout the survey, members have raised a number of issues which they would like clarified. Part 2 of this report attempts to provide information and clarity on these issues.

While most of the issues raised are about daily practicalities for small businesses, many of the factors that will resolve such questions relate to fundamental issues. In order to answer questions about practical business issues, it is necessary to understand why there is uncertainty on these fundamental issues, and to appreciate all sides of the debate thereon.

Part 2 is therefore split into 3 sections:

- **Section 2.1** addresses questions relating to the referendum process and what would happen in the event of a 'yes' vote. This section aims to clarify why many of the core issues are still uncertain and when members should expect more certainty on them. It will also identify key issues relating to the process of transition to independence.
- **Section 2.2** identifies two fundamental issues which are likely to impact daily practicalities for small business: currency and EU membership.

While there are other macro issues surrounding the independence debate – such as the division of assets and debts, oil reserves, and defence – the issues of currency and EU membership are core to understanding and resolving many of the daily practicalities and so deserve detailed discussion.

- **Section 2.3** attempts to answer a number of the questions raised throughout the survey relating to daily practicalities. This section is divided into five broad categories: Business Across a Border, People Across a Border, Tax, Personal Finance, and Regulation.

Section 2.1

THE REFERENDUM PROCESS

Many of the questions raised by members seek clarity on issues relating to the referendum and independence process. However, many of these issues will not and cannot be clarified prior to the vote in September. This section aims to outline what these uncertainties are, and why they cannot be clarified. It then outlines the process of negotiation and transition that would take place in the event of a 'yes' vote.

- **What have and haven't the UK and Scottish governments agreed on regarding the referendum and independence?**

The UK and Scottish governments met in Edinburgh in late 2012 to agree the terms for undertaking a referendum on Scottish independence. This is known as the Edinburgh Agreement. This allowed for a legally-binding referendum with a single question on independence to be held prior to the end of 2014. The Agreement included detail on who would conduct the referendum (the Electoral Commission) and how campaigns would be registered, funded and regulated.

The Edinburgh Agreement also included a general statement that the *"two governments are committed to continue to work together constructively in the light of the outcome, whatever it is, in the best interests of the people of Scotland and of the rest of the United Kingdom"*.

There has been no agreement in relation to pre-negotiation of Scotland's transition to independence in the event of a 'yes' vote. As such, should the 'yes' side win, the terms of Scottish exit would have to be negotiated. While this has practical benefits (the negotiation process is likely to take some time

and require wide-ranging input and legal opinion) it leaves voters in the position that they do not have clarity on what an independent Scotland would look like. This is particularly relevant in relation to currency (see section 2), although numerous other important issues are affected.

- **What happens after a ‘yes’ vote?**

The Electoral Commission recently published a joint statement from both the Scottish and UK governments setting out what happens after a ‘yes’ or ‘no’ vote. In the event of a ‘yes’ vote, negotiations would begin between those representing Scotland and those representing rUK, with a proposed independence date of March 2016. Negotiations would include discussion about the allocation of assets and liabilities between Scotland and rUK. Throughout this negotiation period, Scotland would continue to be part of the UK and the two governments would function as they do at present.

- **Who would conduct these negotiations?**

The Scottish Government has specified that a negotiating team would be formed to negotiate the transition to an independent nation. This would be led by the First Minister and include members from a number of political parties in Scotland and ‘public figures’. This negotiation process would also be scrutinised by the Scottish Parliament.

For rUK, it is unclear who would negotiate terms largely because of the General Election due to be held in May 2015. As such, there is no certainty on who will be in power in Westminster. While the rUK negotiating team is likely to be drawn from across all political parties, it is likely to be led by the Prime Minister, who may or may not change given the outcome of the General Election. Moreover, it raises questions about how much negotiation will

be able to take place between the referendum (September 18, 2014) and the General Election (May, 2015), potentially placing pressure on the Scottish Government’s 18 month negotiation period for transition to independence.

- **In the event of a ‘yes’ vote, what would the negotiation comprise?**

Negotiation on the terms of Scotland’s transition to independence would involve a number of issues and complexities. Some of these are constitutional relating to disbanding the Union of the Parliaments, while many are practical. Of these practical issues, two of the most significant relate to whether a newly independent Scotland would be able to continue to use Sterling as the Scottish currency (examined in the next section), and the division of existing UK debts (largely the national debt) and assets (including the armed forces, government-owned land and properties, and government investments).

In relation to national debt, the UK Government has said that it would remain responsible for all debt payments in the event of a ‘yes’ vote but that it would negotiate the Scottish Government’s contribution to debt costs. There are a number of options available to the UK and Scottish governments in relation to agreeing debt share. One relatively simple method is based on population. Experts further suggest that the UK Government may have a case to argue that Scotland should bear a larger share of debt than simple population because of the extent to which financial institutions based in Scotland had to be bailed out by the UK government. The Scottish Government’s position is complicated by the currency issue. While this will be examined in the next section of the report, the Scottish Government has stated that if Scotland is not able to continue to use Sterling as part of a formal currency union with

rUK, it may refuse to take on any UK debt. As such, their estimated debt range is between the population method proportion and zero debt. Experts have suggested however that this may impact the credit rating of a newly independent nation if they are judged to have refused to accept (and therefore defaulted on) their debt.

The method of negotiating the division of debts and assets will be a key issue for the negotiation teams.

- **In the event of a 'yes' vote, how long would it take to transition to independence?**

The Scottish Government has stated that they are targeting transition to take 18 months, such that the date of Scottish independence would be 24 March 2016. Negotiations will cover a number of significant issues, over and above currency and EU membership, including the division of UK assets and debt, international treaties, membership of NATO and oil reserves. As a result, some constitutional experts have cast doubt on whether this could be achieved so quickly.

- **In the event of a 'yes' vote, who would govern Scotland during this transition?**

Scotland would continue to be governed by the existing Scottish Government for devolved powers, and Westminster for reserved powers. The Scottish Government maintains that Scottish MPs will be elected in the General Election in May 2015 and would represent Scotland in the UK until independence takes effect in March 2016.

- **In the event of a 'yes' vote, when would elections take place for the first independent Scottish Parliament?**

Scottish Parliamentary elections are set out in statute and the next elections are scheduled to take place to elect MSPs to the existing Scottish Parliament on 5 May 2016. Should a 'yes' vote succeed, these elections will go ahead, but will be electing representatives for the first parliament of a newly independent Scotland.

Section 2.2

MACRO ISSUES

While members raised a number of questions about daily practicalities relating to their business in relation to independence, many if not all of these issues will be significantly impacted by two fundamental issues: currency and EU membership. Moreover, both of these issues are the subject of intense debate and conjecture with little consensus emerging.

A 'less impact' scenario sees a newly independent Scotland retaining Sterling in a currency union with rUK and transitioning smoothly to EU membership as a newly independent nation.

A 'greater impact' scenario sees a newly independent Scotland establishing its own currency and exiting then reapplying for EU membership as a newly independent nation.

Of course, numerous variations within these scenarios are also possible.

The Scottish Government maintains that it will be able to retain Sterling in a union with rUK and that it will be able to transition smoothly to being a newly independent member of the EU without having to exit.

On currency, all the major UK political parties have denied that a newly independent Scotland would be able to continue using Sterling in a formal currency union. They have stated that this would be detrimental to rUK and so they would not allow it.

On EU membership, both the EU leadership and other member states have stated that Scotland would be required to exit the EU and reapply.

On these issues both sides have been accused by the other of political posturing prior to the referendum vote – making claims that will not hold legally after the referendum, or proposing ‘solid’ positions that they will then be prepared to change in the case of a ‘yes’ vote. Realistically, it’s unlikely that these positions will be clarified prior to the vote. As such, it is likely that voters will enter the referendum without a clear indication of what will happen to either currency or EU membership. Moreover, it is also possible that, given both issues will require negotiation and agreement of multiple parties, the outcomes will not be known for some time after the referendum. This report now examines each issue in order to help clarify the opposing debates.

CURRENCY

There is no consensus on what the currency of a newly independent Scotland would be. There is consensus that there are four main options which are potentially available to a newly independent Scotland. Each is discussed below.

Retain Sterling in a formal currency union with rUK: ‘Sterling zone’

This is the stated preference of the Scottish Government. In this scenario, a newly independent Scotland would continue using Sterling, and would retain the Bank of England as the authority on payments and settlements and the lender of last resort. They would also have some (proportional) say on the Monetary Policy Committee of the Bank of England, which sets interest rates. This has been termed a ‘Sterling zone’. For this to work, the newly independent Scotland would need to have a single monetary policy under Bank of England control and would agree to a fiscal framework with agreed deficit limits. It has also been suggested that there may need to be agreement on legislation on labour, private property and contracts. A formal

currency union would require the agreement of the rUK government. All of the main UK parties (Conservative, Labour, Liberal Democrat) have publically stated that they will not support or allow this option to go ahead because it creates risks for the rUK economy. In reply, the Scottish Government has said that these parties will change their minds after the referendum because of the importance of Scotland as a trading partner for rUK.

Retain Sterling with no formal currency union with rUK: ‘Sterlingisation’

A newly independent Scotland may continue to use Sterling, even with no agreement from rUK. In theory, any country in the world can use any other country’s currency. For example, Panama uses the US dollar as their currency, although they have no agreement from the US and no say in US monetary policy. In this scenario, a newly independent Scotland would have no representation or involvement with Bank of England monetary policy, and the Bank of England would not act as a lender of last resort in the newly independent Scotland to ‘bail out’ banks or industries. This would be likely to increase borrowing costs for the newly independent Scotland and require them to establish credibility on the world market.

Establish a new currency specifically for Scotland: ‘Scots Pound’

A newly independent Scotland may choose to set up a new currency – as an example, a ‘Scots Pound’ – with a newly established Scottish Central Bank. It would also have its own independent economic policy with full control over interest rates and exchange rate policy. To achieve this, a number of new institutions would need to be established including: a central bank (considered solvent and credible as a lender of last resort); a financial regulatory and supervisory authority; a debt management office and capital markets for bonds and equities; a revenue and customs office; a finance ministry; and a

redenomination law to change existing financial assets into new currency. This option increases the exchange rate risk as well as the risk of capital flight, as investors may move assets out of the newly independent Scotland to a country with a more stable and certain currency (e.g. rUK). This scenario would also increase transaction costs for companies who are trading, investing, moving, and spending across the border.

Adopt the Euro currency: Eurozone

The final potential option that has been raised is that a newly independent Scotland may choose to apply to join the Eurozone countries, adopting the Euro as currency. It is also possible that Scotland may be *required* to join the Eurozone and adopt the Euro as part of EU membership negotiations (see discussion on EU membership below). However, adopting the Euro is not an immediate option for Scotland under any scenario because membership of the Eurozone requires countries to demonstrate, among other things, at least two years' membership of the Exchange Rate Mechanism with their own currency. As such, an interim currency (e.g. 'Scots Pound') would be required.

In sum, the preferred position of the Scottish Government is to retain Sterling in a formal currency union. If this option is not available, it is most likely that a newly independent Scotland would need to establish its own currency, although the Scottish Government has made no official statement to this effect and maintains its primary option is workable.

EU MEMBERSHIP

Currently, Scotland is a member of the European Union as part of the United Kingdom. If Scotland becomes independent, there is a question over whether it will retain membership as a newly independent successor nation, or whether it would have to exit and reapply for entry. This may create, even temporarily, an 'external EU border' with rUK. However, in the event of a 'no' vote, Scotland's future in the EU may also be uncertain on the basis that the Conservative party has promised a referendum on the issue of EU membership in 2017, if they win the next general election in Westminster. As such, if rUK were to elect to withdraw membership of the EU (and assuming the newly independent Scotland remained within the EU), this would also create an 'external EU' border between Scotland and the rUK.

The main question regarding EU membership for a newly independent Scotland surrounds whether Article 48 or Article 49 of the *Treaties of the European Union* would apply to Scotland's proposed independent membership.

This is a complex debate and there are no widely-accepted positions. Both sides of the debate have presented evidence to support their claims. The positions are stated as briefly as possible here.

'Transition from Within': Article 48

Article 48 allows existing members to amend the *Treaties of the European Union*. In effect, Scotland could negotiate to alter its membership from being a union with the UK to being independent of the UK – transitioning, without having to exit and reapply. However, importantly, all amendments of Article 48 require consensus of all other member states. There is concern that other countries facing independence movements from specific regions – for example, Catalonia in Spain – will block this 'transition' option. Nevertheless, others argue that given Scottish citizens are existing EU citizens and have retained rights as such, there is no provision to force Scotland to exit. They argue that a transition under Article 48 would have to be negotiated. This is the position of the Scottish Government. With both sides providing supporting evidence, it is not clear which will prevail. Even if Article 48 was enacted, there is also a question over whether UK-negotiated special provisions – including Eurozone exclusion, budget rebates, and allowances for VAT exclusions for example on food, children's clothing and books – would continue to apply to Scotland as a newly independent member of the EU. It is possible Scotland would need to renegotiate these special provisions, and it is unclear whether they would be granted.

'Exit and Reapply': Article 49

Article 49 is the standard provision for new applicants to join the European Union. Most recently, Croatia joined the EU under Article 49 in July 2013. This process would involve negotiation between the existing member states and the applicant state, including verification that the applicant could fulfil its obligations under EU law. Again, if Article 49 was enacted, Scotland would need to renegotiate the UK-negotiated special provisions – including Eurozone exclusion, budget rebates, and allowances for VAT exclusions. There is an important question over the time it would take to achieve re-entry to the EU. It is impossible to determine this, though the more complex the negotiations, the longer the process will take. Croatia began negotiations for entry to the EU in 2005 with member states agreeing in June 2011 and an official joining date of July 2013. However, depending on how long the negotiations around special provisions take, Scotland's 'prior membership' of the EU and compliance with EU requirements may mean the process would be faster.

EU Membership and Currency

Regarding EU membership and Eurozone requirements, all members of the EU except Denmark and the UK (who negotiated 'opt-out' clauses on the basis of economic sovereignty) are required to adopt the Euro as their currency.

However, to do this they must first meet certain conditions relating to economic policy known as 'convergence criteria'. A number of new EU members do not use the Euro as they have not yet met these criteria (e.g. Bulgaria, Croatia, Czech Republic, Hungary and Romania). Moreover, Sweden has consistently chosen not to meet these criteria and to retain their Krona. While this is not an approved, negotiated position, it has given them a de facto 'opt out'.

If EU membership was negotiated based on 'Transition from Within' (Article 48), the issue of currency would likely be one of the negotiation points, and may depend on the resolution of the Sterling issue with rUK. It is unclear whether the EU would allow the UK's opt-out of the Eurozone to apply to the newly independent Scotland.

If EU membership was negotiated based on 'Exit and Reapply' (Article 49), Scotland would be ratified as a member under the common clause (other than the opt-out member states) that requires new member states to join the Eurozone. However, as noted above, a newly independent Scotland would not be able or even allowed to do this immediately, given they must first meet the convergence criteria, including at least two years' membership of the Exchange Rate Mechanism with their own currency. In this case, an interim Scottish currency would need to be instituted.

Moreover, Scotland may choose to follow Sweden's lead and pursue a 'de-facto opt-out' of the Euro by refusing to meet the convergence criteria.

Business across an external-EU border

Free trade across national boundaries is a cornerstone of the EU. Many of the practical business questions relating to the potential of an 'external-EU border' if Scotland were to leave the EU will be outlined in section 2.3 of this report, in particular in relation to doing 'Business Across a Border'. Given Scotland's trade across the border with rUK, most agree it would be in Scotland's interests to remain within the EU so that this trade and movement is easier: while there may be some complexities associated with retaining trade if a newly independent Scotland creates a border with rUK, these complexities are likely to increase if this border is an 'external EU' border (that is, if rUK is part of the EU, but the newly independent Scotland is not, even if this is only temporary). However, again it should be noted that it is not certain the rUK will remain within the EU given the potential referendum on this issue in the coming years.

People across an external-EU border

Many of the people movement issues relating to an external-EU border will be outlined in section 2.3 of this report, in particular in relation to 'People Across a Border'. The issue of the movement of people must also consider two 'borderless travel' options potentially available to a newly independent Scotland.

All EU members (including new members) are required to join the Schengen Area, which enables 'borderless' travel between participating members. However, the UK as well as the Republic of Ireland negotiated an opt-out of this, given their own, previously established Common Travel Area (CTA). Scotland is currently a member of the Common Travel Area by way of its membership of the UK. It is not possible to be a member of both the Schengen Area and the Common Travel Area.

The issue of whether Scotland will be required to join the Schengen Area as a new EU member is likely to be one of the points of negotiation with the EU on membership. While this is possible, it is unlikely that this will be a main issue, or that the EU would insist on this, in particular because of Scotland sharing an island with the rest of Britain.

The most likely case is that a newly independent Scotland would negotiate an opt-out of Schengen with the EU and apply to remain within the CTA. Other CTA members (primarily rUK and Republic of Ireland, but also the states of Jersey, Guernsey and the Isle of Man) would have to approve membership. In this case, there would be no passport checkpoint at the border with rUK.

However, if a newly independent Scotland was required to join Schengen, they would have to establish a passport checkpoint at all its borders with rUK. It should also be noted that membership of either the Schengen Area or the CTA is approved based on the newly independent Scotland's agreement to collaborate on immigration policy with other members of that borderless travel area. That is, members of borderless travel areas (either Schengen or CTA) are required to have similar, though not identical, immigration policies.

Section 2.3

Daily Practicalities

This section addresses a number of questions asked by members in relation to daily practicalities they may face as small businesses. It is divided into five broad categories: Business Across a Border, People Across a Border, Tax, Personal Finance and Regulation.

BUSINESS ACROSS A BORDER

- **Would I have to pay import and/or export charges/taxes as I buy/sell with rUK?**

Currently, most trade within the EU is not considered importing and exporting, but simply the movement of goods. However, currently, when importing *into* the UK from *outside* the EU companies typically (although not always) pay the following costs:

- Customs duty (as a percentage of the total value of the goods, on average between 5%-9%)
- Import VAT (typically 20%)
- Potentially Excise duty for goods such as alcohol and tobacco

There has been no specific statement on how these may change if an additional border is created between Scotland and rUK but is likely to depend on both Scotland and rUK's EU membership. If both Scotland and rUK remain within the EU, the duties and VAT are likely to remain as current. If an additional 'external EU' border is erected, this may change.

- **What would happen to the Royal Mail and Post Office?**

The Scottish Government has stated that it would return Royal Mail to public ownership following independence. It has not indicated how much this would cost or how this would be achieved, given that 60% of the Royal Mail is now privately owned. The Post Office remains in public ownership and would be split as part of the asset division between a newly independent Scotland and rUK (see section 1).

In relation to the Universal Service Obligation which commits to postal deliveries at an affordable and uniform tariff across the UK, opinion is divided over the impacts of independence on this commitment, although the part privatisation of Royal Mail has also raised questions on this issue. The Scottish Government has stated that stamp and delivery prices will remain on par with rUK in an independent Scotland, at least initially, and that posting a letter to England will cost the same as posting a letter within Scotland. The Scottish Government has also committed to maintain the Universal Service Obligation at the same level as the UK currently offers. However, it is also possible that a new Scottish postal service would have to adjust because of expensive delivery to remote, isolated, and difficult to access areas of the Highlands and Islands: as these costs are currently spread across the entire UK, if Scotland becomes independent the costs would need to be spread across a much smaller population and so may rise. If this were to occur, to maintain the commitment to parity of prices, the Scottish Government would be required to subsidise the new postal service from tax revenue. However the Scottish Government argues that a publicly owned service would not be required to make profits for shareholders and so would be in a better position to maintain prices.

- **Would haulage and/or delivery charges or guarantees (e.g. next day delivery) change given the new border?**

In the transition period, it is unlikely charges or services would immediately change. However, once issues of currency and potential border restrictions have been resolved, hauliers, delivery companies, and couriers would consider any changes to their operating position and costs. They may adjust their charges and service guarantees based on these new conditions. Costs may remain competitive as these companies focus on customer retention or they may increase if their cost of doing business increases, either due to increased paperwork, or increased time for clearance of items at a border, though if Scotland remains part of the CTA this should not be an issue. In general, any change to business costs is likely to depend on the location and size of the business, the spread of the business across the entire UK, and its ability or willingness to absorb increased costs or pass on savings.

- **What would happen to collecting and reclaiming VAT?**

There has been no specific statement on how this process will work. However, a newly independent Scotland would be a separate tax jurisdiction to rUK. Assuming Scotland remains part of the EU (see section 2.2 for discussion), a comparison may be made to the relationship with other EU countries. For example, where a UK VAT registered company buys goods from Ireland, they do not pay Irish VAT at point of sale.

Instead, they 'pay' the VAT by declaring it in box 2 of their UK VAT Return and immediately 'reclaim' the same amount in box 4 of the same return. As such, if a newly independent Scotland remains part of the EU, a similar arrangement with rUK will

be established. It is possible that this may improve cashflow for businesses trading with rUK who no longer pay the VAT with one Return and then reclaim on a later Return.

- **If there is a different currency, how would contracts currently priced in Sterling be affected?**

In the event that Scotland no longer uses Sterling, a currency change would usually mean a redenomination of contracts into the new currency. The newly independent Scotland could remain silent on this issue and allow parties to choose their denomination, or could automatically redenominate Scots law contracts (and claims) into the new currency, using an official conversion rate (parties may then have the option of converting back to Sterling if all parties to the contract agree). Non-Scots law contracts (and claims) would be subject to the preference of all parties.

- **If there is a different currency, how would suppliers and customers pay me?**

You can already choose the currency in which to sell your goods, in order to retain customers, remain competitive, reduce foreign exchange risk, and make profit. In the event that Scotland uses a different currency, rUK suppliers and customers may expect to retain Sterling based contracts of sale – in this case, you would assume the foreign exchange risk. However, they may also be happy to buy from/sell to you in your new currency, in the same way that trade with, for example, Ireland occurs in either Sterling or Euro, depending on the relationship between the parties.

- **If there is a different currency, would I need to change my pricing structure?**

Changes to pricing structure are a matter for individual businesses and you would not be required to change pricing. However, you may decide to take a view on whether you expect costs – including interest payments on mortgages, delivery costs, and supplies – to rise or fall and potentially adjust your prices appropriately.

- **Would I need a business registered in rUK to trade there?**

You would not need a business registered in rUK to trade there, in the same way you do not currently need a business registered in, for example, France, to trade there. However, depending on the amount of business you do in rUK and on the currency and EU scenarios, this may be beneficial for you. You would need to consult advisors once these issues became clear.

- **Would I need an rUK bank account to trade there?**

No. You would not require a bank account in rUK to trade there. If there is a currency change, you may choose to have bank accounts in both Sterling and the new Scottish currency. These can be located in either Scotland or rUK. However, currently savings in UK bank accounts are safeguarded (to a certain value) by the Bank of England. If a newly independent Scotland retains the Sterling in a formal monetary union, this is unlikely to change. However, if this is not the case, Scotland would need to set up its own fully funded central bank to safeguard Scottish savings.

- **I have an rUK bank account currently. How would this be affected?**

You will continue to have access to your rUK bank account. This is unlikely to be affected by either potential currency change or EU membership. You may need to declare interest earned on this account differently in your annual tax return if a newly independent Scotland established a separate tax jurisdiction. You would need to take advice on this once this jurisdiction was established and the rules became clear.

- **I am part of a UK buying club – how would I be affected?**

There have been no statements from either public bodies or UK-wide buying clubs on how independence may affect these. It is likely to depend on the type of buying-club and the rules under which they function. For example, as members of buying clubs normally operate in the same regulatory and pricing environment, it is possible that they will establish a Scottish-based chapter to include all businesses based in a newly independent Scotland, especially where regulation, terms or prices change. If this were to occur, it is difficult to say if the new 'Scottish-buying club' would be able to negotiate more favourable terms – it is likely to depend on the product/service being bought and the buying power of the club. However, it should be noted that in general these clubs are more successful where they have a more significant proportion of the market and can negotiate from a position of size.

- **Would I still be able to sell to public sector in rUK?**

There have been no specific statements on this. Assuming a newly independent Scotland remained part of the EU, businesses on both sides of the border would be freely able to bid for contracts from either rUK or Scottish public bodies under EU directives on procurement. However, some contracts may be exempt from cross-border tendering rules, and there is also a potential for home country bias. As such, some Scottish businesses may gain from increased Scottish procurement, while some may lose from decreased rUK procurement.

- **Would I need to change my website and marketing?**

All .co.uk domain names are administered by UK registry Nominet but have no geographic restrictions and so could still be used in a newly independent Scotland. However, it is also possible that Nominet would require an rUK address registered by the website for legal reasons. Irrespective of the referendum vote, a new .scot domain is now available, having been accepted by the Internet Corporation for Assigned Names and Numbers (ICANN). Changes to marketing material, for example, for customers in the rUK market, would be a matter for individual businesses as there would be no requirement to change.

PEOPLE ACROSS A BORDER

- **Could I keep my British passport? Would there be a Scottish passport?**

The UK government allows dual citizenship. The Scottish Government has stated that they would also allow this. As such, you would be able to keep your existing British passport (and renew it as it expires) and also apply for a new Scottish passport. Equally, any children born to a British passport holder in a newly independent Scotland are likely to be able to apply for a British passport on the grounds of their parentage. However, current UK rules as regards this only apply to one generation, and so that child is unlikely to be able to pass their British heritage on further unless the UK Government changes its rules.

- **Would there be free movement of people and workers across the new border between Scotland and England?**

This would likely depend on EU membership of both the newly independent Scotland and rUK, as well as the negotiations regarding a newly independent Scotland joining either the Schengen Area or the CTA for 'borderless travel'. See section 2.2 for more detail.

- **Would workers from Europe need visas to keep working in Scotland?**

Again, this will depend on Scotland's EU membership status. Assuming Scotland retains EU membership, all existing visas and work permits are likely to remain valid. If Scotland is required to leave the EU, even temporarily, it is not clear what would happen to visa and permit holders from the EU (this includes student visa holders). See section 2.2 for more detail on EU membership.

- **Would I need a visa to visit rUK or Europe on business?**

Again, this will depend on Scotland's EU membership status and possibly on their Schengen/CTA arrangements (see section 2.2). If Scotland retains EU membership and CTA membership, current conditions should remain. If either or both of these memberships changes, new arrangements may have to be negotiated with the relevant bodies.

- **What would happen to immigration?**

Immigration policy will be determined by the newly-elected Scottish Parliament. The Scottish Government has stated that they would introduce a points-based immigration system to better target Scottish workforce needs. However, if Scotland is a member of a borderless travel area (e.g. CTA as they currently are, or Schengen) they may be required to align aspects of their immigration policies with other members. (See section 2.2). That said, Ireland operates a different immigration system to the UK but is part of the CTA.

- **Could rUK patients still visit Scottish doctors, dentists etc. as they currently do?**

As the NHS is already devolved to Scotland and operates separately, it is likely to remain unchanged (that is, remain subject to the policy of the governing Scottish Parliament).

Regarding regular (or indeed, one-off) visits to doctors and the like across the border of a newly independent Scotland and rUK, there have been no specific statements. While NHS Scotland and NHS England (as well as Wales and Northern Ireland), are all independently run, they have protocols and arrangements for reciprocal use. As such, specialist services that require, for example, London-based hospitals, can be accessed by Scottish-based individuals. This is unlikely to change as such services are also accessed by other foreign country citizens. However, the issue of 'daily' GP visits across a new international border is less clear. While currently individuals can be registered at a GP surgery in, say, Scotland even if they live in England, it is unclear whether this would continue, or would change.

TAX

- **Would tax rates and tax breaks remain the same after independence?**

In the transition period it is likely that all taxes will remain unchanged. Once the first Scottish Parliament is elected, they would determine all taxes and tax relief schemes. It is not possible to predict who will be elected or what their policies would be. However the Scottish Government has stated that one of its aims would be to simplify the tax system to reduce compliance costs and make it more efficient. Business rates are already a devolved matter for the Scottish Government.

Some taxation changes will be implemented in Scotland, irrespective of the outcome of the referendum. The Scotland Act 2012 means that from 2015, the Scottish Parliament takes control of landfill tax and stamp duty and, from April 2016, UK income tax for Scottish taxpayers will be reduced by 10 pence in the pound, and the Scottish Parliament will set a replacement Scottish income tax which may be more or less than this reduction. This will be collected by a newly established tax agency Revenue Scotland which is already being established.

- **Would VAT rates change?**

A significant issue relating to VAT relates to EU membership. The UK currently enjoys special provisions regarding VAT rates, and so charges zero VAT on some items including food, children's clothing, books, and disability equipment. It is unclear whether a newly independent Scotland, should it be able to remain in/join the EU, would retain these special provisions (see section 2.2 for discussion). The EU has a minimum 15% VAT rate (with some limited provisions for 5% rate). Beyond this potential minimum requirement, VAT would be set by a newly-elected Scottish Parliament. The Scottish Government has made no comment on changes to VAT.

- **Would Corporation Tax change?**

The Scottish Government has stated that it plans to reduce Corporation Tax by up to 3% below the prevailing UK rate.

- **Would Income Tax change?**

The Scottish Government has made no comment on changes to Income Tax rates, though as outlined above, the Scottish Parliament will assume some control over income tax rates regardless of the outcome of the referendum.

- **Would employees who live in rUK but work in Scotland have to declare tax in both countries?**

Due to income tax powers changing in 2016, irrespective of independence, employers will need to identify all those who are “Scottish taxpayers” and arrangements will already be in place for those who work in both Scotland and the rest of the UK.

While there is no specific statement on this, guidance may come from the Republic of Ireland/Northern Ireland arrangement. Workers who currently live/work either side of the Republic of Ireland/UK border (in Northern Ireland) must pay tax in the country they earn most of their money, and then file a tax return in the country where they live, declaring the income earned abroad. HMRC refers to these people as ‘frontier workers’.

PERSONAL FINANCE

- **What would happen to the two Scottish-based banks?**

Both the Royal Bank of Scotland and Lloyds Banking Group (encompassing the former Bank of Scotland) have registered Head Offices in Scotland, and offer bank accounts and banking products to Scottish and rUK based customers. If Scotland were to become independent, bank accounts and banking products would still be offered to Scottish and rUK based customers. However, there have been suggestions that these banks may either choose, or may be forced, to move their registered Head Offices to London, because of European law. Irrespective of this, personal banking with these companies (and their subsidiaries) is likely to remain unchanged.

- **What would happen to interest rates, borrowing and mortgage costs?**

Because a key underlying determinant of mortgage rates is the interest rate that the central bank and government pay, it is very difficult to predict what the interest and mortgage rates in a newly independent Scotland would be without certainty over the currency and potential currency union. If a newly independent Scotland remains within a newly established ‘Sterling zone’ with a formal currency union there is likely to be less impact. However, if a newly independent Scotland chooses or is required to adopt a different currency, it would also need to set up a central bank and establish its own monetary policy (including interest rates). In this case, it is likely that Scots mortgages would need to be redenominated into the new currency: it is a risk to hold a ‘foreign-currency mortgage’ where the mortgage is in Sterling but the property is valued in the new Scots currency. Given the new currency would be likely to be a floating currency, the government would be likely to nominate a day or a value at which mortgages would be redenominated to the new currency regime.

It should also be noted, that if the newly independent Scotland wants to borrow money from the international markets, these markets will determine the rates at which they will lend to Scotland. These are likely to incorporate issues of default risk, economy strength, and central bank reserves. If a newly independent Scotland did not assume a 'fair share' of the existing UK debt on independence, it has been suggested that some may interpret this as a 'default' and so the credit-worthiness of the government would be decreased and borrowing costs would increase (See section 1 for further detail). This would flow through to mortgages as government interest rates increase. Irrespective of these factors, as a smaller market of just 5.3 million people, experts suggest that the costs of researching, designing and marketing mortgage products, spread over this smaller market, may cause mortgage rates to increase.

- **Would property values drop in a newly independent Scotland?**

Property values depend on supply and demand, as well as the prevailing economic conditions, mortgage rates, and confidence in the ability for the property to retain its value. Some estate agents are suggesting that the independence debate is affecting the property market as potential buyers and sellers are waiting to see what the outcome of the referendum will be, however statistics suggest that domestic and commercial property sales have returned to growth post-recession. It is difficult to know the impact on the property market until there is clarity on the strength of the economy of an independent Scotland and the mortgage rates available. There is likely to be increased uncertainty, and so impact, if currency and EU membership cannot be negotiated. However, if these two factors can be negotiated to meet the

Scottish Government's stated position (Sterling zone and continued EU membership), investors and buyers are likely to feel more certain and secure.

- **Would changes to company location/ registered address affect credit ratings?**

An unstable address history (i.e. multiple moves) can affect your credit score. However, this is related to a pattern of regular movement, rather than a one-off change. As such, if the change in address reflects a one-off move, it is unlikely to significantly impact your profile.

- **What would happen to the state pension?**

In relation to state pensions, the Scottish Government has outlined a single-tier pension which will be £1.10 higher a week than the rUK equivalent. It also outlines a 'triple lock' where this rate would rise by inflation, earnings, or 2.5% - whichever is higher. It also says it will review the pension age increase to 67 being considered by Westminster, largely because of Scotland's lower life expectancy.

Entitlement to state pension is built up through an individual's national insurance contributions, although payments are made from general taxation. There is a question over whether those who have already contributed to the UK system through national insurance contributions, should receive (or continue to receive) payments from rUK, or whether that responsibility should transfer to a Scottish Government as part of negotiation over assets. However, both Scottish and UK Ministers agree that the state pension will be paid and that individuals retain their pension rights.

This question of state pension payments becomes more important when issues of currency are considered. For example, if a newly independent Scotland has a different currency to rUK, would the state pension be paid in Sterling on the basis that national insurance contributions were made in Sterling? This issue is also affected by the EU membership issue. Current agreements protect pensions for those who have worked within multiple EU countries. For example, if a newly independent Scotland were to exit the EU, even temporarily, a new arrangement would need to be negotiated to ensure entitlements are preserved.

- **What would happen to public sector pensions?**

The Scottish Government is already responsible for many Scottish public sector pensions and Scottish councils are responsible for local authority pension schemes. A newly independent Scotland would likely take control of additional public sector pension schemes, assuming responsibility from rUK for Scottish public servants. However, they would need to resolve issues relating to who should be included in which country's scheme. For example, should a retired scheme recipient who worked in England but has retired to live Scotland remain in the rUK scheme or be transferred to the Scottish scheme? This issue has more importance if there is a different currency.

Another issue relates to the fact that the public sector operates a range of defined benefit funded and unfunded pension schemes. Assuming a newly independent Scotland remains in the EU, there will be issues regarding the solvency of these schemes because EU laws require cross-border schemes to be fully funded.

- **What would happen to the private pensions?**

In the UK, private sector pension schemes are currently protected by The Pensions Regulator and the industry-funded Pension Protection Fund, to which Scottish firms have contributed. The Scottish Government has proposed that a Scottish Pensions Regulator would be created, but a single UK Pension Protection Fund would be maintained. This would require negotiation and agreement from the newly independent Scotland and the rUK to establish a workable arrangement. It is not clear if this would be possible or if Scotland would need to establish its own Scottish Pension Protection Fund. Such an arrangement would create a new layer of cost and complexity for businesses with employees on both sides of a new border. Moreover, a Scottish PPF which lacks the depth of a UK-wide scheme may be more easily swamped by a single large pension fund insolvency. The issue of currency is again important here, as the creation of a new Scottish currency could lead to a mismatch between assets and liabilities which is an added risk. While the issues relating to pensions are complicated, experts suggest that it is likely that in a smaller market, with the attendant overhead costs, pensions in Scotland would carry new costs and would have to fall on either businesses or their employees.

- **What would Scotland's pension obligations be?**

If Scotland votes 'yes' and negotiations begin on the division of UK assets and debts, one element to be negotiated relates to which pension obligations would be transferred to the newly independent Scotland. While it is not possible to determine in advance how this division will take place, it is possible to say that Scotland will inherit a pension obligation when the division occurs. The issue of whether a newly independent Scotland would be able to meet this pension obligation has been a point of debate. Because so many other factors affect this (division of other assets and liabilities, GDP growth, currency stability and subsequent government borrowing rates, ageing population, size of the Scottish workforce), it is not possible to comment authoritatively.

REGULATION

- **What would happen to current UK laws and regulations?**

All existing laws and regulations would remain unchanged in the transition period to independence. The Scottish Government has proposed a 'continuity of laws' for the early days of a newly independent Scotland, where all existing laws – whether currently devolved or reserved – would remain until they were changed by the newly elected parliament. The Scottish Government has also stated that one of the changes will involve voting in a written constitution to underpin the newly independent nation. This would be developed through a constitutional convention process and the Scottish Government has suggested the convention consider the following issues: equality of opportunity and the right to live free of discrimination and prejudice, a constitutional ban on nuclear weapons being based in Scotland, and certain social and economic rights, such as the right to education, the right to healthcare and protections for children.

- **What would happen to vehicle licensing, MOT testing and vehicle registration?**

These existing UK-wide institutions would be subject to the division of UK assets. A newly independent Scotland would receive a proportion of these existing institutions and use this to establish Scottish-based licensing, registration and MOT policy and administration.

- **What would happen to the HMRC, and how will taxes be collected?**

As part of the division of assets, a newly independent Scotland would be likely to inherit HMRC assets located here. As a result of new tax powers coming to the Scottish Parliament in 2015 and 2016, irrespective of the referendum, the Scottish Government has already established Revenue Scotland – this would be the primary tax collecting body. Tax records of citizens of the newly independent Scotland would need to be transferred to the new Scottish tax institution. All tax policies and legislation would be enacted by the newly elected Scottish Parliament.

- **What will happen to energy costs and to feed-in tariffs for renewable energy?**

It is very difficult to predict what will happen to energy costs, irrespective of independence. Experts suggest that energy bills are going to rise across the existing UK because of increased subsidies to renewables and nuclear, replacement of infrastructure, and power plants which are coming offline. They also suggest that if an independent Scotland chose to support renewables at the current level, this would represent a burden either for Scottish bill payers or for Scottish taxpayers. Given that the Scottish Government has outlined Scotland's renewable energy ambitions, they may develop legislation to continue to support this industry. There have been no specific statements or policies on feed-in tariffs.

- **What would happen to professionals regulated by bodies based in rUK (for example, General Dental Council, ABTA)?**

There have been no specific statements on what would happen to regulatory bodies such as these. However it is likely that they would establish chapters in a newly independent Scotland, either independent of the rUK body, in collaboration with the rUK body, or subservient to the rUK body. It is likely that each will determine their future based on the arrangement that best suits the function of their body. It is also likely that these arrangements would be implemented over time and bridging arrangements would ensure that there were no 'gaps' in regulatory monitoring.

- **What would happen to the Civil Aviation Authority?**

It has been proposed that the UK CAA would continue to provide its existing functions during the transition and early days of independence until such time as a newly independent Scotland was able to set up its own body.

- **What would happen to beer duty and minimum pricing?**

Alcohol licensing is a devolved power and so is unlikely to change significantly (that is, it will remain the purview of the Scottish Parliament).

There has been no specific statement on beer duty within a newly independent Scotland. However, regarding beer (and all alcohol) duty for exporting goods produced in the newly independent Scotland into rUK, it is not yet clear what the process would be. Again, it may depend on whether the newly independent Scotland is part of the EU or not (see section 2.2). Irrespective of this, exporting alcohol to rUK is likely to require duty stamps. If Scotland is part of the EU and duty has already been paid in the

newly independent Scotland, the alcohol is likely to enter rUK under existing duty paid or duty deferred arrangements. If Scotland is not part of the EU, the alcohol is likely to be liable for UK excise duty when it reaches rUK.

- **What will happen to vehicle insurance?**

Insurance is provided by private companies. They develop policies and pricing structures based on both the individual being insured and the type of vehicle, as well as the regulatory environment in which the vehicle operates. As such, different insurance policies and pricing structures are likely to be introduced for customers in a newly independent Scotland. It is impossible to say whether costs would increase or decrease. Existing policies are likely to bridge the independence time frame so that there will be no gap (i.e. you are unlikely to have a policy declared null and void on the first day of independence).

- **What will happen to rules on agriculture, forestry, and fishing?**

Forestry, agriculture and fishing are already devolved but are influenced by both Scottish Government policy and EU membership, for example through the EU Common Agriculture Policy farm subsidies. However, if a newly independent Scotland remains part of the EU, it is argued that they may have more power and secure higher payments than they currently do as part of the UK, because of country-wide average subsidies per hectare. Again, in either case, this may depend on whether Scotland negotiates a transition or an exit and reapply with the EU and what the terms of membership are (see section 2.2).

The issue of fishing is influenced by the EU Common Fisheries Policy which sets quotas for how much of each type of fish each member state is allowed to catch. Again then, this issue depends on EU

membership and negotiations (see section 2.2). The Scottish Government has suggested that if Scotland is not allowed to remain within the EU, they may deny EU fleets access to Scottish waters and therefore to reach Norwegian waters. While they may control fishing rights, international law requires countries provide free passage through territorial waters.

- **Will registering patents and IP rules change?**

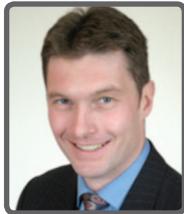
Currently, Scottish businesses and individuals use the UK Intellectual Property Office (IPO) to register UK patents, trademarks and design rights and assignments/licences relating to them. Also, as an EU member Scotland is subject to and benefits from the provisions of various international treaties which relate to IP.

There have been no specific statements on what would happen to existing patents and the like, or to registering new patents if Scotland were to gain independence. It is likely that a newly independent Scotland would set up its own system of registering new patents (and possibly take over existing patents pending). Existing UK-wide patents are likely to remain enforceable, although a newly independent Scotland would need to reach agreement with the UK Intellectual Property Office and Westminster to enable this 'bridging' to take place.

The most significant issues relate to EU membership status, as exit of the EU could impact Europe-wide rights and could require Scotland to negotiate separately and join the various existing international treaties relating to IP. Moreover, with the new Unitary Patent Regime due to come into effect in the EU in the next 12 months, continued membership of the EU would allow Scotland to benefit from the centralised enforcement of patent rights.

Further Information

- **Yes Scotland:** www.yesscotland.net
- **Scottish Government White Paper:** www.scotland.gov.uk/Publications/2013/11/9348
- **Better Together:** www.bettertogether.net
- **UK Government reports:** www.gov.uk/government/collections/scotland-analysis



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