



Immigration and Scottish independence

Summary

1. Immigration is a major political issue in the UK yet the Scottish White paper blithely assumes that a Scottish government could run an immigration policy in conflict with that of the rest of the UK and still retain an open border. The reality is that, if Scotland does become independent and joins the EU, it may well be obliged to join the Schengen Free Travel Area. If so, it will be required by Schengen rules to establish immigration controls on the Scottish / English and Scottish / Irish borders.

2. Alternatively, if Scotland succeeds in staying out of Schengen, the declared immigration policy of the SNP will make the existing Common Travel Area with England and Ireland impossible to sustain. Unless a clear agreement is reached on immigration policy, including a joint process for the issue of visas, there will have to be controls on the borders between Scotland, England and Ireland. This must be a red line in any future negotiations on Scottish independence. The Scots would have to make their own arrangements for the issue of Scottish visas overseas - a change that would be bound to have implications for business and tourism in Scotland.

Introduction

3. If Scotland votes 'Yes' to independence on September 18th 2014 ¹ the Scottish Executive plans to declare Scotland an independent state in March 2016.² This paper will explore what immigration policies the SNP has proposed for an independent Scotland, whether Scotland would be forced to join the borderless Schengen Zone, if not whether their immigration policies would be compatible with a Common Travel Area, and the consequences for the rest of the United Kingdom.

SNP immigration policy

4. The Scottish Executive's white paper on Scottish Independence includes a section on the kind of immigration policy an independent Scotland would pursue.³ This document reiterates the SNP's long established view that the current Westminster government have adopted an attitude that is "aggressive to immigration, asylum seekers and refugees."⁴ The document also outlines the long held SNP view that the UK immigration system does not serve Scotland's interests, which the SNP sees as increasing the country's working age population in order to promote economic growth.⁵ It also commits the Scottish Government to matching "average European (EU-15) population growth over

1 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-21828424>

2 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-21331302>

3 Outlined in Chapter 8 of the "Scotland's Future" white paper, found here: <http://www.scotland.gov.uk/Publications/2013/11/9348/0>

4 Ibid

5 Ibid

the period from 2007 to 2017”⁶ and states that an independent Scotland would use immigration as one of the major levers to increase the country’s population. A post-independence Scotland governed by the SNP would pursue a points based immigration system that would ‘better meet Scotland’s needs’ potentially adding ‘new categories of skills’ and possibly incentivising movement to remote areas to help with ‘community sustainability.’ An SNP government would ‘lower the current financial maintenance thresholds and minimum salary levels for entry.’⁷ Though it is relatively short on detail, the ‘Scotland’s Future’ paper confirms that an SNP governed independent Scotland would seek a more liberal immigration policy.

Scottish Demography

5. Scotland’s population is not declining as is often claimed. It has been stable at about five million for the past 50 years and is projected to increase by 7% in the next 25 years on the assumption that net migration will be 24,000 a year until 2016/17 when it will decline to a net 17,500. In recent years 8,500 have been cross-border and 9000 from overseas. It is often said that Scotland has a markedly different demographic structure from the rest of the UK. In fact the difference is only slight. For example, as of 2012, 16.4% of the population were over 65⁸, virtually the same as the proportion in the rest of the United Kingdom, where 16.3% were over 65.⁹ The proportion of the population aged 25 or under is also very similar, at 30.4% compared to 31.9% of the rest of the UK. However, Scotland does have an aging population. Between 1999 and 2009 the number of people in Scotland under 16 fell by 8% and those aged over 75 increased by 14%.

6. The ONS forecasts that Scotland will have significantly lower levels of population growth than the rest of the United Kingdom over the next fifty years, predicting that Scotland will experience a lower level of net immigration, a lower fertility rate and a lower life expectancy than the rest of the United Kingdom.¹⁰ However, to keep the ratio of people aged from 15 to 64 to those older than 65 at its present level of 4, net immigration would need to increase from its present level of 24,000 a year to about 89,000 a year. This would increase the population of Scotland to 7.8 million by 2031 – an increase of 50% in 20 years.

The economy

7. In November 2013, the First Minister reiterated his commitment to solving Scotland’s population difficulties by increasing the level of immigration into Scotland.¹¹ However, the notion that Scotland needs immigration for economic growth is a fallacy.¹² Immigration brings about negligible benefits in terms of job creation. The House of Lords Economic Committee concluded that ‘immigration cannot be expected to be an effective policy tool to significantly reduce vacancies.’¹³ Nor is there any empirical evidence that migrants will inject ‘dynamism’ to the economy or will necessarily bring about economic growth.¹⁴ It is also worth noting that immigrants have traditionally not chosen to go to Scotland in large numbers. Despite having a population that is roughly 10% the size of England’s, Scotland has over the past ten years attracted just 5% of the number of migrants that chose England.¹⁵

8. Immigration as a solution to the pension problem has been dismissed by all serious studies, including the House of Lords Select Committee on Economic Affairs, which concluded that “arguments in favour of high immigration to defuse the ‘pensions time bomb’ do not stand up to scrutiny as they are based on the unreasonable assumption of a static retirement age and ignore the fact that in time, immigrants too will grow old and draw pensions.”¹⁶

6 Ibid.

7 Ibid

8 <http://www.scotlandscensus.gov.uk/en/censusresults/bulletin.html>

9 IFS report, <http://www.ifs.org.uk/comms/r88.pdf>, page 13

10 IFS report, <http://www.ifs.org.uk/comms/r88.pdf>, page 13

11 <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=8644&mode=pdf>, column 24727

12 <http://www.migrationwatchuk.co.uk/briefingPaper/document/137>

13 HL Paper 82-1 “The Economic Impact of Immigration”, para 158

14 HL Paper 82-1 “The Economic Impact of Immigration”, para 216

15 ONS: Long-Term International Migration time series, 1991-2011 (mid years)- Area of Destination or Origin within UK

16 HL Paper 82-1 “The Economic Impact of Immigration”, para 158

Student Migration

9. In 2012 the SNP announced that it is opposed to any curbs on student migration¹⁷ noting that it believed any such restrictions would negatively affect Scotland's economy. The SNP's white paper on independence commits the SNP to restoring the post-study work visa abolished by the Westminster Government in 2012.

Asylum

10. Humza Yousaf has made clear that an independent Scotland would pursue a more liberal asylum policy than the UK does. Specifically, the SNP oppose removing entitlements from failed asylum seekers and restricting the ability of asylum seekers to work.^{18,19} In their white paper, the SNP criticize current government's record on asylum saying that the Westminster government has "adopted an aggressive approach to asylum seekers and refugees".²⁰ The white paper goes on to state that an independent Scotland governed by the SNP would close the Dungavel removal centre and 'end the practice of dawn raids and inhumane treatment of those who have exercised their legitimate right to seek asylum'.²¹ The White Paper further states that independence "will also afford the opportunity to address asylum seekers' access to employment, education and accommodation."²² Such policies could see a very substantial movement of asylum seekers to Scotland from England and elsewhere.

EU, Independence and the Schengen Zone

11. According to the Foreign Affairs Select Committee, much of the debate around Scotland joining the Schengen Zone depends on whether Scotland or the remainder of the UK inherits the treaty rights, obligations and memberships of international organisations that the UK currently holds. They consider it impossible for politicians at either Holyrood or Westminster to make unilateral declarations with any certainty.²³

British Government's view

12. It is the British Government's opinion that an independent Scotland would be considered a new state and would thus have to re-apply for membership of the EU making it likely to lose the UK's existing opt outs. This opinion is set out in the document "Scottish analysis: devolution and the implications of Scottish Independence."²⁴

The Scottish Executive's view

13. The white paper maintains that Scotland would not seek membership of the Schengen Area and reiterates the claim that a Scottish government would be able to maintain all of the UK's existing treaty opt outs, including on Schengen.²⁵

17 http://www.glasgow SNP.org/MSPs/Sandra_White_MSP/Westminster_one-size-fits-all_approach_to_immigration_has_failed_Scotland/

18 <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7553&mode=pdf>

19 <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=7553&mode=pdf>

20 Outlined in Chapter 8 of the "Scotland's Future" white paper, found here: <http://www.scotland.gov.uk/Publications/2013/11/9348/0>

21 Ibid

22 Ibid

23 <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcaff/643/643.pdf>,p.3

24 <https://www.gov.uk/government/publications/scotland-analysis-devolution-and-the-implications-of-scottish-independence>

25 Argument set out in Chapter six 'International Relations and Defence', of "Scotland's Future", which can be found here: <http://www.scotland.gov.uk/Publications/2013/11/9348/10>

EU View

14. The President of the European Commission, Jose Manuel Barroso, has gone on record as saying that Scotland will have to reapply for membership. "If one part of a country wants to become an independent state, of course as an independent state it has to apply to the European membership according to the rules - that is obvious."²⁶ Most individual EU states that have commented thus far have indicated that they believe Scotland will have to reapply. Ireland stated during its recent presidency of the EU that Scotland would have to apply 'from scratch'. Spanish Foreign Minister José Manuel García-Margallo stated that an independent Scotland would have to go through the full negotiation process²⁷ and win the support of all 27 members. The Czech Minister of Foreign Affairs Karel Schwarzenberg said: "Scotland would have to apply for membership."²⁸ Latvian Foreign Minister Edgars Rinkevics said "the procedure of admitting a new member to the EU would have to be followed. All the chapters of negotiations have to be opened, duly negotiated and then closed." Slovak Minister of Foreign Affairs Miroslav Laicak said: "It is a political decision made by all the member states."²⁹ Hungary's ambassador János Csák, said: "There are different opinions on whether Scotland would inherit membership or re-file accession papers."³⁰ Accession Treaties require the unanimous agreement of member states.

Schengen

15. New EU member states are obliged to fulfil 35 criteria in order to join the Union. Criterion 24 makes clear that membership of the Schengen Area is obligatory for new members.^{31, 32}

16. The SNP holds that it could negotiate an opt out from the Schengen Zone, though there is no precedent for this. The party rubbishes the notion of border controls after independence³³, repeating this view in their independence white paper, in which they state that continued membership of the Common Travel Area (CTA) means "there will be no need for border checks between an independent Scotland and England."³⁴ The SNP believe that the CTA already allows for different systems and that their implementation of a more 'flexible' immigration system won't mean any change to Scottish membership of the CTA.³⁵

UK Government's position on Schengen and Border Controls

17. It is the UK Government's view that Scotland would 'almost certainly not' be able to negotiate an opt out from Schengen.³⁶ David Lidington, Minister of State for Europe, has claimed that negotiating an opt out from Schengen would require the unanimous consent of all other EU states³⁷ a view supported by the Foreign Affairs Select Committee.³⁸ It is the Select Committee's view that they are unlikely to succeed.³⁹ The Home Secretary, Theresa May

26 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-20664907>

27 <http://www.guardian.co.uk/politics/2012/oct/24/scotland-eu-membership-spain>

28 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-21601242>

29 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-21601242>

30 Ibid

31 http://ec.europa.eu/enlargement/policy/conditions-membership/chapters-of-the-acquis/index_en.htm

32 <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcaff/643/643.pdf>, p.28 http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l33020_en.htm

33 <http://www.heraldscotland.com/politics/political-news/new-border-control-fears.15582640>

34 Outlined in Chapter 8 of the "Scotland's Future" white paper, found here: <http://www.scotland.gov.uk/Publications/2013/11/9348/0>

35 Ibid

36 http://www.huffingtonpost.co.uk/2012/03/25/scottish-border-checks-could-follow-scottish-independence-theresa-may_n_1378032.html

37 <http://www.telegraph.co.uk/news/politics/9094402/Independent-Scotland-may-need-passport-controls-at-the-English-border.html>

38 <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmcaff/643/643.pdf>

39 <http://www.scotsman.com/the-scotsman/politics/scottish-independence-spectre-of-border-controls-raised-by-top-tory-1-2128207>

has stated that an independent Scotland would be obliged to join Schengen which would “open Scotland’s borders up to mass immigration”^{40, 41}. She strongly implied that this could lead to the imposition of English border controls on Scotland.⁴²

Scottish public opinion

18. Analysis shows the gulf between Scottish public opinion and that of the rest of the UK on immigration is not as wide as the SNP often present it as being. Examples are at Annex A

The Irish immigration system- an example

19. Ireland, as a sovereign state within the Common Travel Area has its own distinct immigration system. However, that system is broadly similar to the UK’s and Ireland doesn’t aggressively seek out immigration in the manner the SNP is proposing for Scotland.

20. Ireland has a green card permit scheme available to fill skills shortages.⁴³ Ireland also issues work permits where a job cannot be filled by a native or EU worker.⁴⁴ In 2012 there were 2,919 work permits granted and 1,088 renewals.⁴⁵ Ireland also grants Intra Company Transfer visas to senior managers who have been working for a company for a minimum of 12 months. ICTs do not accrue residency rights.⁴⁶ Ireland is currently reviewing its family permit policy.⁴⁷ In 2012 Ireland granted 6,939 student visas but course fees must be paid in advance and the student must have access to a €3,000 registration fee as well as living expenses. All students must have private health insurance.

Canada and a regional immigration policy

21. Some have suggested that Canada’s regional immigration policy could be a useful model for Scotland. However, it has been strongly criticised because many migrants who move to Canada on regional visas fail to stay in the provinces to which their visas commit them. The Quebec Investor Visa has been particularly criticised in the Canadian national press and by Canadian politicians.⁴⁸ This system clearly would not be suitable for the remaining United Kingdom, given the well-established tendency of immigrants to prefer London and the South East of England over Scotland. Indeed, the Liberal Democrats recently abandoned their policy of a regional immigration policy after acknowledging that it was unfeasible.⁴⁹

Conclusion

22. There appear to be two possible scenarios if Scotland votes for Independence. The first is that Scotland is compelled to join the Schengen zone. If so she will be obliged by the Schengen border code to establish border crossing points and border guards and to require documents of those crossing it.⁵⁰

40 <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-17498681>

41 <http://www.itv.com/news/update/2012-03-24/theresa-may-warns-of-mass-immigration-to-scotland/>

42 <http://www.express.co.uk/news/uk/376491/Scots-may-face-checks-at-English-border-says-Home-Secretary>

43 <http://www.djei.ie/labour/workpermits/greencardemploymentpermit.htm>

44 <http://www.djei.ie/labour/workpermits/workpermittedemploymentpermit.htm>

45 <http://www.djei.ie/labour/workpermits/statistics.htm>

46 <http://www.djei.ie/labour/workpermits/ictemploymentpermit.htm>

47 <http://www.inis.gov.ie/en/INIS/Pages/Join%20Family>

48 Martin Collacott “The Citizenship Fire Sale”, in National Post, 20th August 2013 <http://fullcomment.nationalpost.com/2013/08/20/martin-collacott-the-citizenship-fire-sale/>

49 <http://www.bbc.co.uk/news/uk-politics-24109632>

50 http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/114514_en.htm

23. The second scenario is that Scotland negotiates the continuation of the UK's existing opt outs. If Scotland then seeks to remain in the Common Travel Area (CTA) with England and Ireland but chooses to pursue a markedly different immigration policy to the remaining UK (as advocated repeatedly by the SNP), this would bring Scotland and the remaining UK into conflict. It is not possible to have a common travel area without common, or at least compatible, immigration policies. Scotland would therefore have to be denied continued membership of the CTA. This would inevitably lead to border controls with England (and Ireland) and the Scots would have to make their own arrangements for the issue of Scottish visas overseas. This would be bound to have implications for business and tourism in Scotland. Some proponents of Scottish independence have suggested that membership of the CTA need not constrain Scotland from pursuing a more open door immigration policy⁵¹, making it all the more important that the UK government insist on border controls in negotiations with Scotland if there were to be "Yes" vote. This must be a red line in any future negotiations on independence that might take place.

2nd December 2013

Annex A

Scottish Public opinion

1. When polled on whether they approved of the current government's policy of limiting the number of economic migrants from outside the EU, some 80% of Scots expressed support. Though slightly lower than the percentage of those in the South who supported the policy (84%), the North (82%) and Wales (84%), the proportion of Scots who supported the policy was higher than the percentage of Londoners (74%).⁵²
2. A 2012 poll that asked whether respondents thought the present level of immigration to the UK had a positive or negative effect highlighted that Scots opinion was very similar to that of the rest of the UK. Just 8% of people in the UK overall, 13% of those in London, 7% of those in the South, 5% of those in the Midlands, 8% of those in the North and 7% of those in Scotland thought that the present level of immigration was positive.⁵³
3. The same poll asked respondents about their attitudes to illegal immigration. Asked whether they supported the statement that 'illegal immigrants should be deported immediately, with no right to appeal to the courts', 67% of UK respondents, 54% of those in London, 70% of those in the South, 68% of those in the Midlands and Wales and 70% of those in the North did so. This compares to 65% of Scots surveyed.⁵⁴
4. Another 2012 poll asked whether respondents agreed with the following statement: "A sharp reduction in immigration would be good for Britain's economy because it would mean more jobs for British born workers"⁵⁵. 63% of UK respondents agreed with the statement, as did 54% of those in London, 63% of those in the South East, 63% of those in Wales and the Midlands and 68% of those in the North. 57% of Scots agreed with the statement.
5. Scottish public opinion on matters of integration and community relations are also broadly similar to that of the rest of the UK. When asked whether they agreed with the statement: "I believe that there are some minority communities in Britain that are not integrating with the British way of life and this worries me," 72% of Scots surveyed

51 View of Professor Christina Boswell of the University of Edinburgh, "Contrary to some recent claims, neither membership of CTA or EU would significantly constrain Scottish policy." http://www.royalsoced.org.uk/cms/files/events/programmes/2012_13/speaker_notes/ChristinaBoswell.pdf

52 YouGov/MW poll 8th-9th May 2011 http://www.google.co.uk/url?sa=t&rct=j&q=yougov%20migrationwatch%20poll%20may%202011&source=web&cd=10&ved=0CGAQFjAJ&url=http%3A%2F%2Fwww.migrationwatchuk.com%2Fexcel%2FYouGov%2520on%2520Lib%2520Dems%2520May%25202011.xls&ei=sbMNT7HnLMrb8gO0ndToBQ&usg=AFQjCNE_KpZmn1uPdt2cHHiC5K5xka4MZA&sig2=_SnISi0HPap2EAZxlotPFA

53 http://cdn.yougov.com/cumulus_uploads/document/d51j2t3jzl/YG-Archives-Pol-ST-results-06-080112.pdf, p.5.

54 http://cdn.yougov.com/cumulus_uploads/document/d51j2t3jzl/YG-Archives-Pol-ST-results-06-080112.pdf, p.6.

55 http://cdn.yougov.com/cumulus_uploads/document/vyh16v2yzx/YG-Archives-VoteUkOutEU-YouGov-260112.pdf, p.5

agreed with the statement, compared with 78% of all UK respondents, 79% of those in the South, 76% of those in the Midlands and Wales and 81% of those in the North. When asked whether migrants should have to learn English or not, Scottish opinion was virtually identical to wider UK opinion. When Asked "Do you think that someone coming to live permanently in England from another country should or should not be required to learn English?" 93% of those in London, 94% of those in the South, 92% of those in the Midlands and Wales, 94% of those in the North and 93% of those in Scotland agreed that they should.⁵⁶

56 YouGov 14-15th April 2011, http://cdn.yougov.com/today_uk_import/yg-archives-pol-st-results-05-170411.pdf