

## Briefing for the Citizen Participation and Public Petitions Committee on petition [PE1998](#): End legal loopholes for the Monarchy, lodged by Tristan Gray on behalf of Our Republic

### Brief overview of issues raised by the petition

The petition Calls on the Scottish Parliament to urge the Scottish Government to:

- “legislate to abolish adaptations and exemptions to legislation requested by the Monarchy;
- ensure all future communications between the Monarchy, Scottish Government and Scottish Parliament with representatives of the Monarchy are fully transparent and public;
- publish the detail of all cases where laws have been adapted at the request of the Monarchy; and
- prevent any such alterations to our laws from being implemented in the future.”
- The UK is a constitutional monarchy<sup>1</sup>. The [Constitution Unit at UCL](#) has explained that *“The King reigns, but he does not rule. Ruling is done by his government, and as head of state in the UK the King is constitutionally obliged to follow the government’s advice.”*
- Some Bills require Crown consent before they are passed by the Scottish Parliament (the requirement also exists at other UK legislatures).
- The concept of the Crown is explained in [a House of Commons Library Paper](#): *“The terms “the sovereign” or “monarch” and “the Crown” are related but have separate meanings. The Crown encompasses both the monarch and the government. It is vested in the King, but in general its functions are exercised by Ministers of the Crown accountable to the UK Parliament or the three devolved legislatures.”*
- Crown Consent is required in circumstances where a Bill would affect:
  - Prerogative – which is certain powers and rights that the Crown has, for example, to appoint Ministers or to give Royal Assent to Bills
  - Hereditary revenues - revenue from land owned by the Crown
  - Private interests - anything that affects the monarch personally

---

<sup>1</sup> [The Cabinet Manual](#)

- The Scotland Act 1998 (Schedule 3 paragraph 7) concerns the issue of Crown consent. It states:

*"The standing orders shall include provision for ensuring that a Bill containing provisions which would, if the Bill were a Bill for an Act of Parliament, require the consent of Her Majesty, the Prince and Steward of Scotland or the Duke of Cornwall shall not pass unless such consent has been signified to the Parliament."*

- The Scottish Parliament's Standing Orders reflect this requirement in the Scotland Act. [Rule 9.11](#) is relevant for public bills. Rule 9.11 states that the Parliament cannot debate whether a Bill which requires Crown consent should be passed unless Crown consent is signified by a member of the Scottish Government.
- A Scottish Government Minister signifies Crown consent, usually at the start of stage 3 proceedings.
- A formal request for Crown consent takes the form of a letter. The First Minister's Principal Private Secretary writes to His Majesty's Private Secretary (enclosing 3 copies of the Bill) asking them to ascertain whether the provisions in the Bill which affect the Crown are acceptable to His Majesty.<sup>2</sup>
- A [note on King's and Prince's consent intended for the Parliamentary Counsel Office is available online](#).

## Scottish Parliament Action

- There have been recent changes to accompanying documents to create more transparency around Crown consent<sup>3</sup>.
  - Policy Memorandums for a Bill being introduced should include a paragraph on Crown consent.
  - Explanatory Notes for Bills should include a note on Crown application.
- More detail on Crown consent can be found on the [Scottish Parliament website](#).

**Sarah McKay**  
**Senior Researcher**  
16/01/2023

---

<sup>2</sup> [Scottish Government FOI release](#), background note to [PQ S6W-02027](#)

<sup>3</sup> [S6W-11314](#)

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot) Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP