

Submission from the UK Government to the Scottish Parliament's Constitution, Europe, External Affairs, and Culture Committee Inquiry into options for a legal mechanism for triggering any independence referendum.

Introduction

The UK Government welcomes the opportunity to submit evidence to the Constitution, Europe, External Affairs and Culture Committee's inquiry. As the Prime Minister has been clear, the UK Government is fully focused on tackling the issues that really matter to people in Scotland. A referendum is not one of them. We are working to grow the economy, improve public services, and put more money into people's pockets.

The Constitutional Position

The United Kingdom's constitutional arrangements are founded on the Treaty of Union, agreed in 1706 and enacted through the Acts of Union in 1707. These historic agreements established the Parliament of Great Britain, now the Parliament of the United Kingdom. The sovereignty of the UK Parliament remains the cornerstone of our constitution.

The Scotland Act 1998, which established the current devolution settlement, expressly reserves to the UK Parliament a number of aspects of the constitution, including the Union of the Kingdoms of Scotland and England and the United Kingdom Parliament itself.

The legal mechanism used for the 2014 independence referendum was a specific, time-limited transfer of power under section 30 of the Scotland Act 1998, mutually agreed upon by the UK and Scottish Governments (the Edinburgh Agreement) and passed by both Parliaments. This process temporarily devolved the necessary powers to the Scottish Parliament so as to legislate for a referendum. While it was (and remains) lawfully a matter for the UK Parliament to legislate for a referendum on Scottish independence, the agreement was made that the Scottish Parliament should be the body to pass legislation to provide for the details of the referendum, and so the schedule of reservations in the Scotland Act 1998 was temporarily amended through the order to enable this.

The argument that the Scottish Parliament can legislate for an independence referendum itself, without such a conferral of power by the UK Parliament, was tested and unanimously rejected by the UK Supreme Court in its 2022 judgment. The Court confirmed that legislation making provision for a poll on Scottish independence relates to the reserved matters of the Union of the Kingdoms of Scotland and England and the Parliament of the United Kingdom. It therefore remains a matter for the UK Parliament.

The UK Government's Position

In 2014 people in Scotland voted decisively to remain part of the United Kingdom. In 2024 the manifesto on which this Government won a majority of seats in Scotland and across the UK was clear on this issue, stating that Labour does not support independence or another referendum. The people of Scotland want to see their governments working together to focus on the issues that matter to them, their families, and their communities - they need, and deserve, governments that are relentlessly focused on delivering on their priorities, of which independence is not one.