

Briefing for the Public Petitions Committee

Petition Number: [PE1700](#)

Main Petitioner: Martin James Keatings on behalf of Forward as One

Subject: Progression of process for Section 30 order to hold Scottish Referendum on Independence from the United Kingdom

Calls on the Parliament to urge the Scottish Government to seek a section 30 order from the UK Government to enable it to bring forward legislation in the Scottish Parliament to hold a second referendum on Scotland's independence from the United Kingdom.

Background

The [Edinburgh Agreement](#) was signed by the Prime Minister and First Minister on 15 October 2012. The details of the agreement between the Governments was set out in a draft Section 30 Order and a Memorandum of Agreement (MoA) which formed part of the agreement.

In the MoA, the UK and Scottish Governments agreed that the principles underpinning the framework for referendums held in the UK should apply to the Scottish independence referendum. The referendum rules set out in the UK Political Parties, Elections and Referendums Act 2000 (PPERA), therefore, would be the basis for the legislation providing for the regulation of the referendum on Scottish independence.

An Order made under Section 30(2) of the Scotland Act 1998 allows modifications to be made to Schedule 5 to the Scotland Act 1998, which lists those matters that are reserved to the UK Parliament, by either adding or removing reservations.

The draft Scotland Act 1998 (Modification of Schedule 5) Order 2013 (the Section 30 Order) was laid for approval before the UK and Scottish Parliaments on 22 October 2012. The Scottish Parliament approved the draft Order on 5 December 2012; the House of Commons approved it on 15 January 2013 and the House of Lords gave its approval on 16 January 2013. The Order ([SI 2013/242](#)) was then made by the Privy Council on 12 February 2013.

As well as putting beyond doubt that the Scottish Parliament had the power to legislate for the independence referendum, the Order also provided the

Scottish Parliament with the power to legislate on referendum campaign broadcasts and the sending of free mail-shots which would otherwise have been outwith its competence.

Once the Order was made the Scottish Government was able to introduce the bills required ahead of the independence referendum being held in September 2014.

Scottish Government Action

On [13 March 2017](#), the First Minister, Nicola Sturgeon, confirmed that she planned to open discussions with the UK Government on the holding of a second referendum on Scottish independence.

Ms Sturgeon said she wanted a vote to be held between the autumn of 2018 and the spring of 2019. It was expected that this would coincide with the conclusion of the UK's Brexit negotiations with the EU.

She planned to ask the Scottish Parliament to request a Section 30 order from Westminster at the plenary session on 21 March (see below).

On 31 March 2017, following the Scottish Parliament vote on 27 March (see below), Nicola Sturgeon sent a [letter](#) to the Prime Minister, Theresa May, formally calling for negotiations over a second independence referendum to begin. The First Minister hoped that the mandate of the Scottish Parliament would be respected and progressed:

“...by constructive discussion between our governments. However, if that is not yet possible, I will set out to the Scottish Parliament the steps I intend to take to ensure that progress is made towards a referendum.”

In response to the initial announcement of 17 March, the Prime Minister, writing in the Times, said:

“I do not agree with the Scottish National Party (SNP) that now is the time to be talking about a second independence referendum. To do so now, while all our energies should be directed towards the negotiations with Europe, would make it more difficult to get the right deal for Scotland and the right deal for the UK as a whole.”

On 29 March, responding to the vote in the Scottish Parliament, Mrs May reaffirmed this position, stating in the [Commons](#) that, “now is not the time to be talking about a second independence referendum”.

The SNP's current position on a second referendum is given in an undated entry on its [website](#):

“The Scottish Government will not introduce legislation for an independence referendum immediately. At the end of Brexit negotiations - likely to be next autumn - the Scottish Government will

set out its judgment on the best way forward – and on the precise timescale of the people of Scotland having a choice on our future.”

Scottish Parliament Action

At its meeting on [21 March 2017](#), the Scottish Parliament debated the motion [S5M-04710](#), in the name of the First Minister. The debate continued into the meeting on [22 March](#). However that meeting was interrupted by the news of a security incident at Westminster.

The debate on the motion was resumed on [28 March 2017](#). At decision time the Parliament agreed to an amendment to the original motion, moved by Patrick Harvie.

“That the Parliament acknowledges the sovereign right of the Scottish people to determine the form of government best suited to their needs and therefore mandates the Scottish Government to take forward discussions with the UK Government on the details of an order under section 30 of the Scotland Act 1998 to ensure that the Scottish Parliament can legislate for a referendum to be held that will give the people of Scotland a choice over the future direction and governance of their country at a time, and with a question and franchise, determined by the Scottish Parliament, which would most appropriately be between the autumn of 2018, when there is clarity over the outcome of the Brexit negotiations, and around the point at which the UK leaves the EU in spring 2019; believes that this gives people in Scotland a choice at a time when there is both the most information and most opportunity to act; further believes that 16 and 17-year-olds and EU citizens, who were excluded from the EU referendum, should be entitled to vote, and considers that this referendum is necessary given the Prime Minister’s decision to negotiate a hard exit from the EU, including leaving the single market, which conflicts with assurances given by the UK Government and prominent Leave campaigners, and which takes no account of the overwhelming Remain vote in Scotland.”

The motion, as amended, was then agreed to (For 69, Against 59, Abstentions 0):

Other information

On 31 March 2017, the SNP [announced](#) the results of a poll conducted on its behalf by Survation. This telephone poll questioned 1,104 people, aged over 16, asking them, “ who should have the right to decide if there should be a referendum in Scotland that would allow the people of Scotland to choose between Brexit and independence”? Sixty one per cent said Holyrood and 39% said Westminster.

On 12 July 2018, the Daily Record [reported](#) on an online poll of 1,002 Scots, conducted on its behalf by Survation. The results showed:

- 23% think the First Minister should demand a second referendum when MSPs return to Holyrood in September
- 19% want the First Minister to call for another referendum eventually but did not think she should make the move in the autumn
- 49% think she should not call a second referendum at all
- 9% were unsure.

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7 August 2018

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