



Briefing: First Minister's Statement on a Second Independence Referendum – 28/06/22

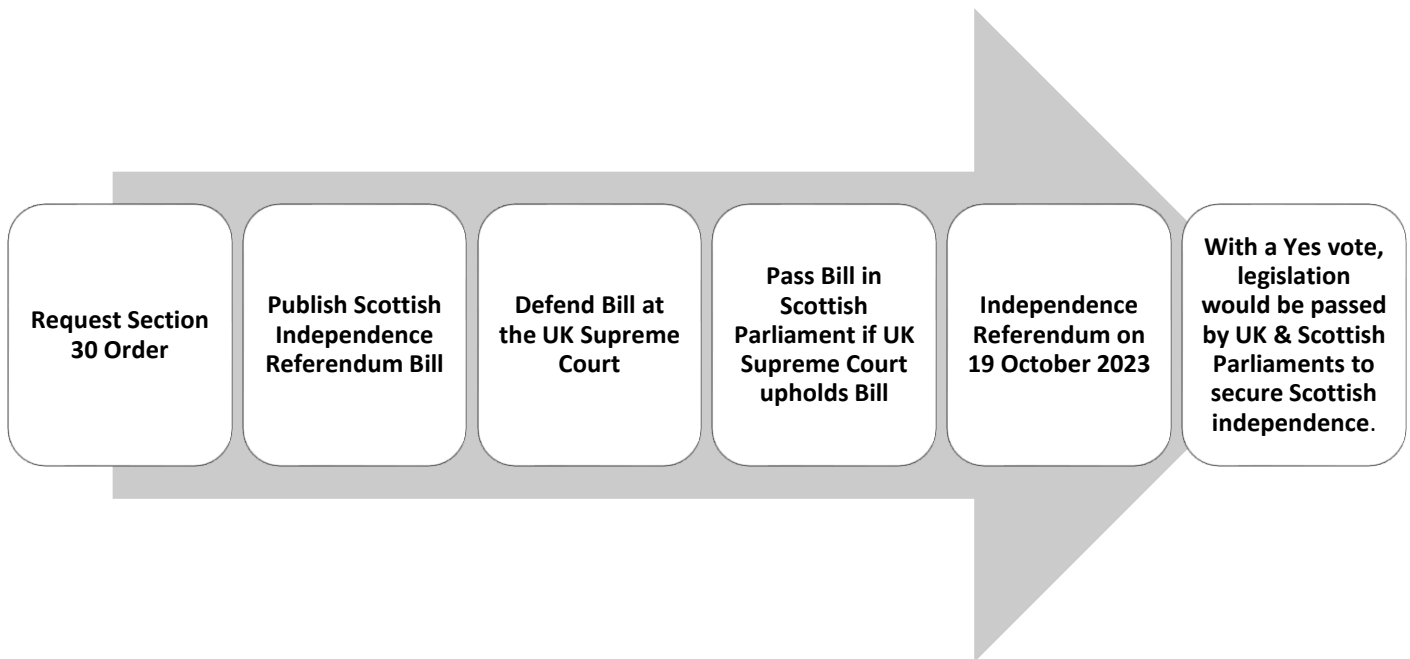
Introduction

- The First Minister Nicola Sturgeon provided a statement to the Scottish Parliament setting out the Scottish Government's pathway towards delivering a second independence referendum. This is the second parliamentary intervention in recent weeks aimed at reviving interest in the matter, following the publication of [Wealthier, happier, fairer: why not Scotland?](#), the first in a series of policy papers focusing on independence.
- While that document outlined some of the supposed benefits of separation, the First Minister's statement today focused on providing a legal route to a second independence referendum, a matter complicated by the fact that the Scottish Parliament does not hold the power to do so in the absence of a Section 30 Order being transferred from Westminster.
- Given the unlikelihood of this being granted, the First Minister set out the actions the Scottish Government and Lord Advocate would take in its absence, namely: (1) the **publication of an independence referendum bill**; and (2) that the **Lord Advocate agreed to make a reference of the provisions of this bill to the UK Supreme Court**.
- The First Minister revealed that she had [written to the UK Prime Minister Boris Johnson](#) stating that she was ready to negotiate a Section 30 Order, which would allow for a second independence referendum to take place, as well as informing him of the Scottish Government's actions as per her statement.

The Scottish Government's Process for an Independence Referendum

- The First Minister set out three key areas to the Scottish Government's process towards securing an independence referendum, which she claimed would be guided by the principles of democracy and the rule of law:
 - The Scottish Government would publish the [Scottish Independence Referendum Bill](#). The referendum proposed in the Bill would be consultative and the date for the poll would be **19 October 2023**.
 - The question would be the same as in September 2014: 'should Scotland be an independent country?'
 - The Scottish Government would seek clarity on the lawfulness in advance of its introduction to the Scottish Parliament, with the Lord Advocate referring the matter to the UK Supreme Court.

How the Scottish Government Hope to Secure Scottish Independence



What if the UK Supreme Court Says It is Unlawful?

- The Scottish Government’s approach entails a considerable amount of political risk, not only due to the legal uncertainty, but also that opinion polls have shown that the appetite for a second independence referendum next year, on the FM’s timeline, remains low – furthermore, on the issue of independence itself, polls show a lead for No.
- Should the UK Supreme Court strike down the plans as unlawful, the First Minister stated that she would use the **next UK General Election as a de-facto referendum** on the single issue of independence.
- **Whatever happens over the legality at the UK Supreme Court, the Scottish Government will claim that it will be an argument for independence:**
 - If found to be lawful, the Scottish Government would introduce the Bill and ask the Scottish Parliament to pass it within the timescale to allow for the 19 October 2023 vote; or
 - If unlawful, it would mean *“any notion of the UK as a voluntary union of nations is a fiction. Any suggestion that the UK is a partnership of equals is false. There would be few stronger or more powerful arguments for independence than that”*, according to the First Minister. This would then set the scene for the UK General Election in Scotland.
- If using the UK General Election in this manner, it **remains unclear as to how this would work in practice** as no details were provided by the FM.

Opposition Reaction

- Responding to the statement, the **Leader of the Scottish Conservatives Douglas Ross** argued that the SNP were putting their constitutional obsessions front and centre *“with a potentially illegal referendum next year”* instead of tackling voter priorities.
- **Scottish Labour Leader Anas Sarwar** reminded the First Minister of the context of the last years Scottish Parliament Elections, where she promised to put Covid-recovery first and that a vote for the SNP was not necessarily for independence: *“Pandemic Nicola has gone”* to be replaced by *“Partisan Nicola”*.

- While **Alex Cole-Hamilton, Leader of the Scottish Lib Dems**, said that her statement was an *“appalling waste of energy and focus”* and was instead about easing disquiet in her own party and putting those interests first instead of the country.

Scottish Independence: Background

- Scotland does not have the explicit legal power to hold an independence referendum as this remains a reserved matter.
- Before the 2014 Scottish Independence Referendum, there was an agreement between the UK and Scottish Governments – as well as a consensus amongst all of Scotland’s main political parties – which culminated in a temporary transfer of powers from Westminster to Holyrood, known as a Section 30 Order, to enable MSPs to legislate to hold a referendum.
- This is not the situation in 2022, as the UK Government remains opposed to granting a Section 30 Order and this is unlikely to change. *“Now is not the time”* is the prevailing mantra.
- Meanwhile at the Scottish Parliament, the Scottish Conservatives, Scottish Labour and Scottish Lib Dems all reject the plans, with the governing SNP and Scottish Greens being in favour.
- The latter believe that they hold a democratic mandate for a second independence referendum by virtue of holding a majority of seats, but opposition parties have pointed out that the First Minister herself told voters before the 2021 Scottish Parliamentary Elections that the vote was not about independence.