



## Briefing for the Public Petitions Committee

**Petition Number:** [PE01516](#)

**Main Petitioner:** Malcolm Lamont

**Subject:** Referenda for Orkney, Shetland and the Western Isles

Calls on the Parliament to urge the Scottish Government to hold three separate referenda in Shetland, Orkney, and the Western Isles on Thursday 25 September 2014, one week after the Scottish independence referendum, asking the people of each island group whether they would prefer their island group:

- to become an independent country, or
- to stay in Scotland

and, in the event of a yes vote in the referendum on Scottish independence, to have the following additional option:

- to leave Scotland and stay in the remainder of the UK

### Background

This petition asks for the Scottish Government to hold separate referendums in each of the three Island groups a week after the Referendum on Scottish Independence takes place. In the information accompanying the petition, the Petitioner acknowledges that the Order in Council which transferred the power to hold a Referendum on Independence to the Scottish Parliament requires the poll for this referendum to be held on a day with no other poll provided for by legislation of the Scottish Parliament. However, he goes on to state that there would be nothing to prevent, "... the Scottish Government from deciding to hold these three referenda a week later".

The "Edinburgh Agreement", signed by the Scottish and UK Governments in October 2012, and the subsequent Order in Council made under section 30(2) of the Scotland Act 1998, gave a clear legal basis for the Scottish Parliament to legislate for a single-question referendum on Scottish independence to be held before the end of 2014. This was taken forward by the [Scottish Independence Referendum Act 2013](#) which provides for a referendum with a single question on independence in Scotland to be held on 18 September 2014 or later (but no later than 31 December 2014) in certain circumstances.

There was no provision in the Edinburgh Agreement, Order in Council or in the 2013 Act for further referendums on independence to be held in Scotland. While it is clear from the Section 30 Order that it would not be competent for the Parliament to legislate to hold another referendum on the same day as the Referendum on Scottish Independence, it is less clear whether or not the Scottish Parliament has the power to legislate for a referendum of the kind called for by the Petitioner. In the case of the Referendum on Scottish Independence, there was disagreement between the Scottish and UK Governments on the former's competence to hold such a referendum. In the event, however, the use of a section 30 Order was mutually agreed to put the legality of the referendum beyond doubt and to ensure respect for the outcome.

It may be argued, as it was in the case of the Referendum on Independence, that the purpose and effect of such a referendum would be to end or alter the Union between Scotland and England. Schedule 5 Part 1, paragraph 1 of the Scotland Act 1998 reserves "aspects of the constitution" including the Union of the Kingdoms of Scotland and England. On the other hand, it may be argued that political independence does not necessarily mean ceasing to be part of the same kingdom. Paragraph 1 also reserves the Parliament of the United Kingdom. Arguably, a referendum on the removal of any or all of the three Island groups from the jurisdiction of the UK Parliament would impinge on that reservation. However, it is also arguable that such a referendum and its outcome would have no effect on the powers of the UK Parliament, as only further legislation at Westminster to give effect to the outcome could do that.

### **Our Islands Our Future Campaign**

In response to the Referendum on Scottish Independence, Scotland's three island councils: Comhairle nan Eilean Siar (Western Isles Council), Orkney Islands Council and Shetland Islands Council launched a campaign in June 2013 on the future of the Islands regardless of the result of the Referendum. This campaign '[Our Islands Our Future](#)' considers itself to be non-partisan, taking no position on the outcome of the Referendum but seeking rather to engage and negotiate with political leaders and decision makers on either side of the independence debate, to ensure that the particular nature and needs of Scotland's Island groups are recognised and taken fully into account.

The Campaign declared a vision,

"... for a stronger future following the Independence Referendum of 2014. We are calling for a commitment that whatever the outcome, the needs and status of island areas are clearly recognised in the new era for Scotland".

The Islands' councils seek to negotiate with the Scottish Government over additional powers for the Islands such as:

- Control of the sea bed around the islands, allowing revenues currently paid to the Crown Estate to be channelled into local needs.

- New grid connections to the Scottish mainland to allow wave, tidal and wind energy resources to generate maximum benefits for the islands.
- New fiscal arrangements to allow the islands to benefit more directly from local resources, including renewable energy and fisheries.
- Recognition of the status of the three island groups in a new Scottish Constitutional Settlement and within the European Governance Framework

## **Scottish Government Action**

In response, the First Minister issued what became known as the '[Lerwick Declaration](#)' in July 2013, establishing the Island Areas Ministerial Working Group, chaired by Local Government Minister, Derek MacKay MSP. The purpose of the Group is to work towards developing a prospectus outlining opportunities for island communities in the context of the referendum. The Group met initially in August 2013 for the first of six planned meetings. The fifth meeting took place in Stornoway in March this year and the final meeting is scheduled to take place in Kirkwall in June.

## **UK Government Action**

Shortly after the Lerwick Declaration, Michael Moore MP, then Secretary of State for Scotland, announced that he would also meet with the leaders of the three islands councils to discuss the needs of the three Island groups. Since then, Alistair Carmichael, MP for Orkney and Shetland, has replaced Mr Moore as Secretary of State for Scotland.

On 7 April 2014, representatives of Our Islands Our Future held meetings at Westminster over three days with the Secretary of State for Scotland and with others, including Labour's Shadow Scottish Secretary, Margaret Curran MP. The main purpose of the meeting with the Secretary of State was to agree a concordat incorporating the Government's response to the issues raised in the campaign. Mr Carmichael said that he hoped to have an agreement in place by mid-summer giving the Island authorities greater control over their own affairs. Mr Carmichael also said that the Islands should have, 'the maximum amount of control' and promised 'genuine and long-lasting reform'.

Following her meeting with the campaign group, Margaret Curran said,

"The leaders of our Island Councils have made a strong case for why their communities should have more control over the decisions that affect their lives...Labour would put more power in the hands of Scotland's island communities. This will include power to develop renewable energy resources, to tackle unemployment, to take more control of economic development and to give the maximum possible power over the Crown Estates."

**Denis Oag**  
**Principal Researcher**  
**1 May 2014**

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@scottish.parliament.uk](mailto:spice@scottish.parliament.uk)

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.