



# How are Decisions over Scotland's Constitutional Status Taken?

Scotland's constitutional status refers to the political relationship that Scotland has with the rest of the UK, and the way that Scotland is governed. Changes to Scotland's constitutional status have been achieved through four kinds of processes: elections, referendums, commissions and UK legislation.

## Elections

When political parties compete in elections, they present a manifesto, with pledges of what they would do if they were to win the election and form the government. Some parties include promises that relate to the constitutional status of Scotland and the UK. For example, in 2010, the Conservative Party manifesto promised to put the proposals of the Calman Commission (see below) into law. Some parties make commitments in their manifestos to kick-start other constitutional processes. For example, the 1997 Labour manifesto promised a referendum on whether to create a Scottish Parliament. The 2011 SNP manifesto promised a referendum on independence.

## Referendums

A referendum is when voters are asked to decide a vote on a single topic. Scots have voted in six constitutional referendums:

---

1975 on the UK's membership of the European Community

---

1979 on a Scottish Assembly

---

1997 on a Scottish Parliament

---

2011 on changing the voting system for UK elections

---

2014 on independence

---

2016 on the UK's membership of the European Union

Referendums are usually based on a single question, but can have more than one question. The 1997 devolution referendum had two questions: the first asked voters to agree or disagree that there be a Scottish Parliament, and the second asked whether they agreed that the parliament be given tax-varying powers. Although referendums are a recent development in Scottish and UK politics, it is generally accepted that a major change to the constitutional status of Scotland would happen only after the public had voted for such a change in a referendum.

## Commissions and Conventions

Commissions or conventions are when a group is formed to consider whether there should be a change to Scotland's constitutional status, and to make recommendations about what those changes should be. In the late 1980s, some political parties, trade unions and representatives from the Church leaders, business and other bodies came together (in opposition to the government of the day) to form the Scottish Constitutional Convention. The Convention became a forum that campaigned and designed a blueprint for a Scottish Parliament within the UK. In 2008, the Commission on Scottish Devolution commission (also known as the Calman Commission after its chairman, Professor Sir Kenneth Calman), was set up with the support of the UK Government and the Scottish Parliament.

Its members were leaders in their field, and included retired judges, members of the House of Lords, University professors, business and trade union leaders based in Scotland. The Calman commission was tasked with undertaking an independent review to explore whether the Scottish Parliament's powers should be changed, and in particular whether it should have more responsibility for raising tax revenue. Following 14 months of research, public consultation and (private) discussion, the committee recommended a modest increase in the Scottish Parliament's powers, mainly over taxes. After the independence referendum in 2014, the UK Government set up the Smith Commission. Unlike the Calman Commission, this was a cross-party commission, made up of two representatives from each of the five political parties represented in the Scottish Parliament, and chaired by Lord Smith of Kelvin. The Commission took 6 weeks to recommend big changes to the powers of the Scottish Parliament, including in tax, benefits, energy and elections. The Commission recognised that these new powers made it more likely that the decisions of the UK Government would affect the responsibilities of the Scottish Government, and vice versa. They therefore also recommended that there be more formal arrangements for the two governments to work together.

Those setting up the Commission will usually decide on its membership. Sometimes, as in the case of the Calman Commission, members are appointed who are considered to have expertise, knowledge or experience suited to the task at hand. In the case of the Smith Commission, members were nominated by each of the political parties to represent their interests during the discussions.

## UK Legislation

The constitution is a reserved matter, which means that only the UK parliament can make laws that change the constitution, including the powers of the Scottish Parliament. As a result, any changes to Scotland's constitutional status that are promised in party election manifestos, recommended by commissions or conventions, or agreed by the voters in a referendum, also need to be changed in a law passed by the UK parliament (the House of Commons and the House of Lords). The referendum in 1997 led to the Scotland Act 1998. Following the recommendations of the Calman Commission and the Smith Commission, that Act was amended by the Scotland Act 2012 and the Scotland Act 2016.