

A second referendum on Scottish independence



Why are people talking about a second Scottish independence referendum?

Scottish voters were first asked whether they wanted Scotland to become an independent country in a referendum in September 2014; the result was 55% to 45% against independence.

In its manifesto for the 2016 Scottish Parliament elections, the Scottish National Party (SNP) argued that “Scotland being taken out of the EU against our will” would justify a second vote on independence. Scotland voted by 62% to 38% in favour of Remain in the EU referendum in June 2016, and the first minister, Nicola Sturgeon, concluded that indyref2 “must be on the table”.

In March 2017, the day before Article 50 was triggered, Sturgeon formally requested the consent of Westminster to hold another referendum. But the then prime minister Theresa May declined, arguing that “now is not the time”. The first minister renewed calls for a second vote in April 2019, announcing a new process for deciding Scotland’s constitutional future.

The SNP’s 2019 General Election manifesto stated that the party intended to hold a second referendum in 2020; it won 48 of Scotland’s 59 seats. Nicola Sturgeon claimed that there was a “renewed, refreshed and strengthened mandate” for another vote. She formally requested the power to hold an independence referendum on 19 December 2019, but the prime minister, Boris Johnson, refused the request arguing that the 2014 referendum was a ‘once in a generation opportunity’.^[1]

Does the Scottish Parliament have the power to hold another independence referendum?

Under the Scotland Act 1998, the Scottish Parliament is not allowed to pass legislation relating to matters “reserved” to Westminster, including “the Union of the Kingdoms of Scotland and England”. This is widely interpreted to mean that any referendum relating to Scottish independence would require Westminster approval. However, the matter has never been tested in court, so there remains some uncertainty about whether Holyrood could hold an advisory referendum without consent.

In 2012, the UK and Scottish governments signed the Edinburgh Agreement, which temporarily empowered the Scottish Parliament to hold the first independence referendum. This power was transferred using a so-called ‘section 30 order’, which “put beyond doubt” the legality of that referendum.

The Scottish government did not explicitly concede that a referendum could never be held without Westminster authorisation. But its preference is to proceed with agreement, since any unauthorised referendum could be blocked in the Supreme Court or simply boycotted by unionist parties.

The framework act has been certified as within the competence of the Scottish Parliament by the presiding officer. However, Sturgeon has that a section 30 order would be necessary “to put beyond doubt or challenge our ability to apply the bill to an independence referendum.”

Is Westminster likely to approve another independence referendum?

The UK government has repeatedly ruled out the possibility of authorising a second independence referendum. Boris Johnson has said he would not approve another vote, claiming that the issue had been settled in the “once-in-a-generation” vote in 2014.

The 2019 Labour manifesto said it would not authorise a second a referendum “the early years of a Labour administration”, leaving open the possibility that it might be able to do so some point in the future.

What is the Scottish government’s plan for a second independence referendum?

The Scottish government remains of the view that Scotland should be given a choice between Brexit and independence. In April 2019^[2], Sturgeon said that voters should have the opportunity make a decision on Scotland’s future before the next Scottish parliamentary election in 2021, but after the “Brexit path has been determined”, to “allow an informed choice to be made”.

The Scottish government would need to pass primary legislation to enable the referendum to take place, once it had the power to do so. In May 2019, the Scottish government introduced the Referendums (Scotland) Bill, which would set the rules for holding the poll. This became law in January 2020.

The Act broadly replicates the legal framework for referendums held by the UK government, as set out in the Political Parties, Elections and Referendums Act 2000.

The Electoral Commission would be given a statutory role, overseeing the conduct of the poll and the regulation of referendum campaigners, including designating lead referendum campaigners.

The Act also requires the Electoral Commission to test the “intelligibility” of a proposed referendum question. Unlike the UK precedent however, this requirement does not apply if the Electoral Commission has previously published a report on the same question, or if the Electoral Commission has recommended the wording. This suggests that if the Scottish government opts for the same question as 2014, further testing would not be required.

When could a second referendum on Scottish independence happen?

The Scottish government had previously stated its ambition to hold a second independence vote in 2020, however in March 2020, it paused preparatory work due to the coronavirus crisis.^[3] To hold a referendum on a clear legal basis, it will need the agreement of the UK government.

If the UK government were to devolve the power to hold a second independence referendum to Scotland, it may place conditions on when the vote could be held.

What is the position of the other parties on Scottish independence?

Other than the SNP, the only pro-independence party in the Scottish Parliament is the Scottish Greens. Together with the SNP, these two parties hold 68 seats, a narrow majority for independence in the 129-seat legislature.

The leaders of the Scottish Conservative, Labour and Liberal Democrats have all reiterated their opposition to a second independence referendum since September 2018.

Does the Scottish public support independence?

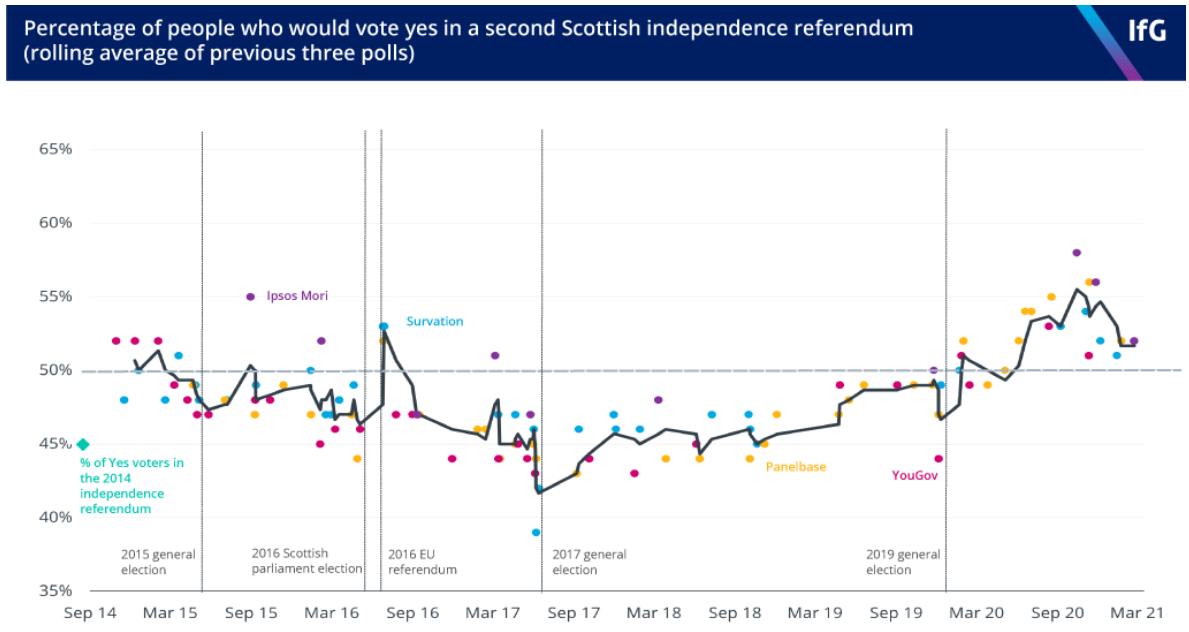
Polling suggests that the majority of Scottish public think that there should be a second independence referendum at some point, but only a small minority think it should be held in the near future. A 2019 Survation poll^[4] found that only 34% of Scots thought there should never be an indyref2, but just 21% thought that there should be a referendum in the next two years.

In terms of voting intention, recent opinion poll data suggests that support for independence stands at around 50% of the electorate.

Immediately after the EU referendum, the polls suggested a swing towards support for independence should a second referendum occur. However, this support was not sustained, and most polls between 2016 and 2018^[5] indicate that a narrow but clear majority would vote against independence.

However, the polls appeared to narrow in 2019. In 12 different polls conducted between April and December 2019 by various companies, 'No' to independence held an average lead of just three percentage points.

In 2020, support for independence appears to have risen further. Several polls have found a majority in favour of independence, including by a record margin of 54% to 46%, in a June 2020 Panelbase survey.



Source: Institute for Government analysis of [publisher], [dataset], [time period].



Percentage of people who would vote yes in a second Scottish independence referendum (rolling average of previous three polls) (Updated: 01 Mar 2021) ^[2]

^[3]
^[4]

Who would be eligible to vote in a Scottish independence referendum? ^[5]

The Referendums (Scotland) Act 2020 provides that the franchise for any future referendum held by the Scottish government will be the same as the franchise for Scottish Parliament elections. Any UK, Irish, Commonwealth or relevant EU citizen aged 16 and over and on the Scottish local government electoral register would therefore be entitled to vote.

Following changes introduced in the Scottish Elections (Franchise and Representation) Act, which became law in April 2020, the franchise of those elections has been extended to also include all people legally resident in Scotland regardless of nationality, and would allow prisoners serving sentences of less than 12 months the right to vote.

If Scotland voted Yes to independence, what would happen next? ^[6]

A Yes vote would be followed by negotiations between the UK and Scottish governments on the terms of independence, including how to divide the assets and liabilities of the UK state and on the future relationship between the two new countries.

One big question is whether an independent Scotland would reapply to be part of the EU. If Scotland voted for independence, it would most likely be considered a third country^[6] ^[7] and would need to apply to join under Article 49 of the Treaty on the European Union. Re-entry would require accession negotiations and the consent of all 27 EU member states.

There is no guarantee that an independent Scotland would gain new EU membership on the same terms as the UK's membership. For example, Scotland may not be able to opt out of the requirement to adopt the Euro once certain criteria were met.

If it did not join the Euro, an independent Scotland would also have to decide which currency to use. In May 2018, the SNP Sustainable Growth Commission recommended that an independent Scotland should continue to use Sterling (without a formal monetary union) for a "possibly extended" transition period before introducing its own currency.

Questions about arrangements for the Scotland-England border would also arise if an independent Scotland were a member of the EU single market and customs union, and the rest of the UK were not.

An independent Scotland might also face difficult choices about spending priorities. Public spending per person (including a share of UK-wide spending on things like defence) was **13% higher in Scotland** ^[8] than the rest of the UK in 2016/17, while estimated tax revenue was around 4% lower than the UK average, according to the Office for National Statistics ^[9], ^[7] ^[7]

- Letter from PM Boris Johnson to First Minister Nicola Sturgeon, 14 January 2020, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/857586/Nicola_Sturgeon_20200114.pdf ^[10]
- Scottish Parliament, Meeting of the Parliament 24 April 2019, www.parliament.scot/parliamentarybusiness/report.aspx?r=12053&i=109040 ^[11]
- Letter from Cabinet Secretary for Constitution, Europe and External Affairs, Michael Russell MSP, to the Chancellor of the Duchy of Lancaster, Rt Hon Michael Gove MP, 18 March 2020, www.gov.scot/publications/coronavirus-covid-19---independence-referendum-cabinet-secretary-for-constitution-letter ^[12]

4. What Scotland Thinks, Which of the following best summarises your view on the timing of another referendum on Scottish independence?, 18 April-16 September 2019, whatscotlandthinks.org/questions/which-of-the-following-best-summarises-your-view-on-the-timing-of-another-refer#table ^[13]
5. What Scotland Thinks, How would you vote in a Scottish independence referendum if held now? (asked after the EU referendum), 24 June 2016-19 June 2020, whatscotlandthinks.org/questions/how-would-you-vote-in-the-in-a-scottish-independence-referendum-if-held-now-ask/#line ^[14]
6. Letter from José Manuel Barroso to Lord Tugendhat, 10 December 2012, www.parliament.uk/documents/lords-committees/economic-affairs/ScottishIndependence/EA68_Scotland_and_the_EU_Barroso%27s_reply_to_Lord_Tugendhat_101212.pdf ^[15]
7. Office for National Statistics, Country and regional public sector finances: financial year ending 2017, www.ons.gov.uk/economy/governmentpublicsectorandtaxes/publicsectorfinance/articles/countryandregionalpublicsectorfinances/2016to2017 ^[9]

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- [1] <https://www.instituteforgovernment.org.uk/file/scottish-independence-ref-polling-chart-feb-2021.png>
- [2] <https://www.instituteforgovernment.org.uk/charts/second-scottish-independence-referendum-polling>
- [3] [https://twitter.com/intent/tweet?text=Percentage of people who would vote yes in a second Scottish independence referendum \(rolling average of previous three polls\) &url=https%3A%2F%2Fwww.instituteforgovernment.org.uk%2Fprintpdf%2F7015%23chart_1593620182&via=instituteforgov](https://twitter.com/intent/tweet?text=Percentage%20of%20people%20who%20would%20vote%20yes%20in%20a%20second%20Scottish%20independence%20referendum%20(rolling%20average%20of%20previous%20three%20polls)%20&url=https%3A%2F%2Fwww.instituteforgovernment.org.uk%2Fprintpdf%2F7015%23chart_1593620182&via=instituteforgov)
- [4] <https://www.instituteforgovernment.org.uk/sites/default/files/chart-images/scottish-independence-ref-polling-chart-feb-2021.png>
- [5] <http://twitter.com/intent/tweet?text=Who%20would%20be%20eligible%20to%20vote%20in%20a%20Scottish%20independence%20referendum%3F>
- [6] <http://twitter.com/intent/tweet?text=If%20Scotland%20voted%20Yes%20to%20independence%2C%20what%20would%20happen%20next%3F>
- [7] <https://www.instituteforgovernment.org.uk/explainers/second-referendum-scottish-independence#references>
- [8] <https://www.instituteforgovernment.org.uk/sites/default/files/publications/Devolution%20at%202020.pdf#page=46>
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- [13] <http://whatscotlandthinks.org/questions/which-of-the-following-best-summarises-your-view-on-the-timing-of-another-refer#table>
- [14] <https://whatscotlandthinks.org/questions/how-would-you-vote-in-the-in-a-scottish-independence-referendum-if-held-now-ask/#line>
- [15] https://www.parliament.uk/documents/lords-committees/economic-affairs/ScottishIndependence/EA68_Scotland_and_the_EU_Barroso%27s_reply_to_Lord_Tugendhat_101212.pdf