

# SCOTTISH GOVERNMENT'S RESPONSE – WRITTEN EVIDENCE (GOU0004)

## Introduction

1. The Committee's inquiry is focussing on<sup>1</sup>:
  - Co-operation via the new intergovernmental relations arrangements in place since January 2022;
  - Consultation by the UK Government with the devolved administrations; and
  - Respect for the Sewel convention.
2. The Scottish Government has recently provided written evidence relevant to these issues to the Scottish Affairs Committee (SAC)<sup>2</sup> of the House of Commons for its inquiry on *Intergovernmental relations: 25 years since the Scotland Act*<sup>3</sup>, and the Constitution Europe External Affairs and Culture Committee (CEEACC)<sup>4</sup> of the Scottish Parliament for its inquiry on *How devolution is changing post EU*<sup>5</sup>. The Government's written evidence also signposted the Committees to further material which might be useful.
3. The Cabinet Secretary for Constitution External Affairs and Culture has given oral evidence to both Committees: the SAC on 11 March 2024<sup>6</sup>; and the CEEACC on 29 June 2023<sup>7</sup>.
4. The CEEACC published its report on 24 October 2023<sup>8</sup> and the Scottish Government responded on 21 December 2023<sup>9</sup>.
5. The Scottish Government refers the Committee to this material to inform its inquiry into these matters. Both the SAC and the CEEACC have also published other evidence from their inquiries that the Committee might find helpful.

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<sup>1</sup> [Call for Evidence - Committees - UK Parliament](#)

<sup>2</sup> [Intergovernmental relations: 25 years since the Scotland Act 1998 - Committees - UK Parliament](#)

<sup>3</sup> [committees.parliament.uk/writtenevidence/124908/pdf/](#)

<sup>4</sup> [How devolution is changing post EU | Scottish Parliament Website](#)

<sup>5</sup> [Scottish Government response to the Committees letter of 25 May 2023 \(parliament.scot\)](#)

<sup>6</sup> [11 March 2024 - Intergovernmental relations: 25 years since the Scotland Act 1998 - Oral evidence - Committees - UK Parliament](#)

<sup>7</sup> [Meeting of the Parliament: CEEAC/29/06/2023 | Scottish Parliament Website](#)

<sup>8</sup> [How Devolution is Changing Post-EU | Scottish Parliament](#)

<sup>9</sup> [Scottish Government response to the Committee's report on How is Devolution Changing post EU report \(parliament.scot\)](#)

## **Intergovernmental Relations**

6. The Committee asks:

1. How effective are the new intergovernmental relations structures—introduced in January 2022—at maintaining and improving relationships between the UK Government and the governments of the devolved nations?
  - To what extent have the new intergovernmental structures provided a mechanism for the UK Government to effectively consult the devolved administrations, including on legislation affecting areas of devolved competence, and secure consent for such legislation?
  - The UK Government and the three devolved administrations have committed themselves to “promoting collaboration and the avoidance of disagreements”. How has this operated in practice and to what extent has the joint approach on common frameworks assisted that collaboration, if at all?
  - How has the dispute resolution process operated in practice? Is it effective?
  - What are the implications of the restoration of the Northern Ireland Executive for the efficacy of the new intergovernmental relations structures?

7. The Scottish Government refers the Committee to its written evidence to the Scottish Affairs Committee inquiry on Intergovernmental relations: 25 years since the Scotland Act<sup>10</sup>, which sets out the government’s view on the arrangements for intergovernmental arrangements, including the new structures introduced after January 2022 .

8. The Scottish Government also refers the Committee to its written evidence to the CEEACC<sup>11</sup>, the CEEACC’s report<sup>12</sup>, and the Scottish Government’s response to that report<sup>13</sup>.

## **The Sewel Convention**

9. The Committee asks:

3. To what extent are the devolved administrations consulted prior to legislation being introduced in the UK Parliament that alters the executive competences of the devolved ministers? What impact has this had on the executive competences of the devolved ministers?
4. Has respect for the Sewel convention eroded or strengthened in recent years? If so, what has been the cause of any such development?
5. Is there any scope to strengthen the Sewel convention. If so, how? Is there a case for updating the Devolution Guidance Notes? If so, which sections require updating and how?

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<sup>10</sup> [committees.parliament.uk/writtenevidence/124908/pdf/](https://committees.parliament.uk/writtenevidence/124908/pdf/)

<sup>11</sup> See page 1-2: [Scottish Government response to the Committees letter of 25 May 2023 \(parliament.scot\)](https://parliament.scot/Scottish-Government-response-to-the-Committees-letter-of-25-May-2023)

<sup>12</sup> See paragraphs 42 – 82: [How Devolution is Changing Post-EU \(parliament.scot\)](https://parliament.scot/How-Devolution-is-Changing-Post-EU)

<sup>13</sup> See pages 2 – 4: [Scottish Government response to the Committee's report on How is Devolution Changing post EU report \(parliament.scot\)](https://parliament.scot/Scottish-Government-response-to-the-Committee's-report-on-How-is-Devolution-Changing-post-EU-report)

10. The Scottish Government refers the Committee to its written evidence to the CEEACC<sup>14</sup>. It also refers the Committee to the CEEACC's report<sup>15</sup>, and to Scottish Government's response to that report<sup>16</sup>. In addition the Scottish Government refers the Committee to its publication *Devolution since the Brexit referendum* (June 2023)<sup>17</sup> and the CEEACC's earlier inquiry on *The impact of Brexit on devolution* (September 2022)<sup>18</sup>.

11. This evidence contains the Scottish Government's proposals for strengthening the Sewel Convention, including strengthened statutory provision. On Devolution Guidance Note 10<sup>19</sup>, the Scottish Government considers the guidance should be properly observed, which would ensure prior consultation on proposed changes to executive competence (which require the legislative consent of the Scottish Parliament under the Sewel Convention<sup>20</sup>).

### **Powers for UK Government Ministers to make secondary legislation in devolved areas**

12. The Committee asks:

6. The Sewel convention does not apply to delegated legislation. Within this context, what are the implications of the UK Government:

- a) using delegated legislation in areas of devolved competence, with or without consultation or consent?
- b) using Henry VIII powers to alter acts of the devolved legislatures?

13. The Scottish Government refers the Committee to its written evidence to the CEEACC<sup>21</sup>. It also refers the Committee to the CEEACC's report<sup>22</sup>, and to Scottish Government's response to that report<sup>23</sup>. The Scottish Government also refers the Committee to the CEEACC's earlier inquiry on *The impact of Brexit on devolution* (September 2022)<sup>24</sup>.

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<sup>14</sup> See pages 3 – 4: [Scottish Government response to the Committees letter of 25 May 2023 \(parliament.scot\)](#)

<sup>15</sup> See paragraphs 124 – 151: [How Devolution is Changing Post-EU \(parliament.scot\)](#)

<sup>16</sup> See page 2: [Scottish Government response to the Committee's report on How is Devolution Changing post EU report \(parliament.scot\)](#)

<sup>17</sup> See pages 9 – 10: [Devolution+since+Brexit+-+for+publication+-+13+Jun+23+2.pdf \(www.gov.scot\)](#)

<sup>18</sup> See paragraphs 56 – 119: [The Impact of Brexit on Devolution \(parliament.scot\)](#)

<sup>19</sup> [Post-Devolution Primary Legislation affecting Scotland \(publishing.service.gov.uk\)](#)

<sup>20</sup> See paragraph 4.III, DGN10

<sup>21</sup> See page 5: [Scottish Government response to the Committees letter of 25 May 2023 \(parliament.scot\)](#)

<sup>22</sup> See paragraphs 152 – 197: [How Devolution is Changing Post-EU \(parliament.scot\)](#)

<sup>23</sup> See pages 5 – 6: [Scottish Government response to the Committee's report on How is Devolution Changing post EU report \(parliament.scot\)](#)

<sup>24</sup> See paragraphs 120 – 179: [The Impact of Brexit on Devolution \(parliament.scot\)](#)

## **Territorial offices**

14. The Committee asks:

2. Is there scope to strengthen the role of the territorial departments (the Office of the Secretary of State for Scotland, the Office of the Secretary of State for Wales and the Northern Ireland Office) at official and ministerial level in order to improve communication and consultation between the UK and devolved administrations?

15. The role the Office of the Secretary of State for Scotland is a matter for the UK Government. However, the Scottish Government believes that most contact should be carried out on a bilateral or multilateral basis, between departments which deal on a day-to-day basis with the issues at stake, as is currently the case<sup>25</sup>.

*3 April 2024*

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<sup>25</sup> See paragraph 23: [MoU between the UK and the Devolved Administrations.pdf \(publishing.service.gov.uk\)](#)