

Supreme Court rules in favour of UK Government

Press release

The UK Supreme Court today (6 October 2021) determined that parts of two Scottish Government Bills were outside the legislative competence of the Scottish Parliament.



The judgment follows the UK Law Officers' (the Advocate General for Scotland and the Attorney General) referral of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill and the European Charter of Local Self-Government (Incorporation) (Scotland) Bill.

The UK Government's concerns with the bills were not about their policy objectives, but that they would place legal obligations on UK Government Ministers in reserved areas and affect UK Parliament in its ability to make laws for Scotland.

It is important that all legislation clearly reflects the competence and roles of Scotland's two parliaments and governments. The UK Government has been clear that it is the responsibility of both governments as lawmakers to propose legislation that is clear and unambiguous.

Scottish Secretary Alister Jack said:

I welcome the UK Supreme Court's decision, which provides vital legal clarity on these two bills.

As set out in the Scotland Act 1998, the Scottish Parliament cannot legislate outwith its areas of competence.

As we have been clear, our concerns were never to do with the policy of the Bills, but about whether they are within the legislative competence of the Scottish Parliament.

We will continue to work collaboratively with the Scottish

Government to address any competence concerns with future Scottish Parliament legislation.

Following the Court's judgment, it is for the Scottish Government to consider their next steps if they wish the Bills to proceed to Royal Assent.

The UK Law Officers referred the bills to the UK Supreme Court using powers set out in the Scotland Act 1998. In advance of that, the Secretary of State for Scotland had written to the Scottish Government to highlight our concerns and suggest remedies.

The UK Government is committed to protecting children's rights, and the legal protection for vulnerable children in England is frequently recognised as being amongst the strongest in the world. The UK Government's commitment to the UNCRC is already reflected in legislation. The Children Act 1989 and Children Act 2004, for example, set out a range of duties to safeguard and promote the welfare of children.

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