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## Scottish independence: Legal warning over North Sea



The rUK could gain control of waters further north of Edinburgh if independence is backed, says a new report. Picture: Complimentary

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**ENGLAND and Scotland would face a lengthy dispute over ownership of the North Sea if independence is backed next year, and the rest of the UK could gain control of waters further north of Edinburgh, according to a new report.**

The paper, written by legal experts at Dundee University, says **the two newly separated nations could have a legal dispute of anywhere between three and ten years to decide which gets control of the seas off the east coast.**

It also warns that the International Court of Justice would “likely” favour a more northerly line, which could push the reserves in the Fulmar oil field, 300 kilometres off the Fife coast, into English waters.

Even on this border, the vast majority of North Sea oil would still fall into Scottish waters. However, the academics say the remainder of the UK would be unwilling to compromise on giving in to Scotland on a more southerly boundary, given that it is also contesting boundaries with Argentina over the Falkland Islands and with Spain over Gibraltar.

The paper is written by Professor Pieter Bekker, the Chair in International Law at the University of Dundee’s Centre for Energy, Petroleum and Mineral Law and Policy, and Penelope Warne, the head of energy at law firm CMS Cameron McKenna.

The paper compares Scotland’s position after a Yes vote to that of South Sudan, which recently voted to secede, saying that Scotland would also have to apply for membership of international organisations and potentially renegotiate treaties which the UK has previously signed.

The land border between Scotland and England is not disputed, but the maritime border in the North Sea would be, it says.

And while a sea border was created after devolution, marking Scotland’s fisheries zone, the authors of the paper say this is not a maritime boundary line, and has no standing in international law. Both authors state they “do not take a position for or against possible Scottish independence” and that the paper was written to highlight the “legal implications” of independence to the offshore oil and gas industry.

It concludes that in negotiations between the UK and Scotland “an independent Scottish Government and Westminster can be expected to advance overlapping maritime claims affecting licensed areas in the North Sea”.

The report says that the International Court of Justice (ICJ) could then be asked to decide on the matter. “Boundary cases have taken at last three, and sometimes more than ten, years to conclude – resulting in uncertainty in the intervening period,” the paper says.

And it concludes that, if the ICJ “strictly applied” the law, it would likely apply the so-called “equidistance method” which seeks to track a course that is as far from the English border as it is from the Scottish.

This, the report says, “would result in a line which cuts through licensed areas and appears to favour Westminster in the North Sea given the geographical configuration of the relevant coast and the area to be delimited”.

**Prof Bekker added that it was “unlikely that Westminster will be flexible” in the negotiations, given the “political sensitivities of its border disputes elsewhere in the world.**

**A UK government spokesman confirmed last night that the exact location of the border could be a process for international law.**

**Previous calculations, by oil expert Professor Alex Kemp of Aberdeen University, have estimated that Scotland would keep around 90 per cent of the UK’s oil resources, most of which are based much further north.**

**A Scottish Government spokeswoman said: “The establishment of a single maritime boundary between an independent Scotland and the rest of the UK will be agreed in accordance with well-established international law.”**