

Autumn 2020

e-bulletin

Keeping you up to date with Scottish Law Commission news and consultations

Our current work

The Scottish Law Commission continues to work on law reform remotely during the Covid-19 lockdown.

Our current law reform projects are set out on this page. These include joint law reform projects with the Law Commission of England and Wales. For further information on any particular project, click on the link.



Scottish Law Commission projects

- [Heritable securities](#)
- [Aspects of the law of leases](#)
- [Homicide](#)
- [Aspects of family law](#)
- [Damages for personal injury](#)

Joint projects with the Law Commission of England and Wales:

- [Insurance law](#)
- [Surrogacy](#)
- [Automated vehicles](#)

Statute law work

- [Consolidation of statutes](#)
- [Statute law repeals](#)

News



In the summer, the Commission said farewell to Joan Melville. Joan had worked for the Commission for many years, latterly as Executive Assistant to the Chair, the Chief Executive and Commissioners. In recognition of her outstanding service to the Commission and law reform, Joan was awarded an MBE in the Queen's Birthday Honours List in 2016.

The Commission also said farewell recently to Gillian Swanson. Gillian worked for the Commission for many years, as one of our project managers/lawyers. Gillian provided outstanding service on many projects over the years, recently on the surrogacy and damages for personal injuries projects.

In October we were delighted to welcome Alison Fraser to the Commission, as the project manager and lawyer for the surrogacy and damages for personal injuries projects.

Four Nations Law Reform Conference

In July this year, the annual law reform conference of the Law Commissions of Scotland, England and Wales, Ireland and Jersey was hosted virtually by the Jersey Law Commission. Among the topics discussed were the rule of law and the response to Covid-19 in our respective jurisdictions. Papers considered at the conference are here: [Proceedings-of-the-joint-conference-2020](#)



The Society of Legal Scholars Annual Conference

The Society of Legal Scholars held a virtual conference from 1 - 4 September, hosted by the University of Exeter. The Commission contributed to the conference, with a virtual booth offering attendees information about the Commission and our law reform projects, and interaction with Commissioners and Commission lawyers present at the booth.



Implementation

Defamation and Malicious Publication (Scotland) Bill

The Defamation and Malicious Publication (Scotland) Bill passed Stage 1 proceedings in the Scottish Parliament on 5 November, with the Parliament unanimously approving the principles of the Bill.

The Bill seeks to implement the recommendations in the Commission's 2017 Report on Defamation, with a view to modernising the law of defamation and making it fit for purpose in today's society.

The Bill can be found on the Parliament website [here](#). The Commission's Report is [here](#).

Scottish Government Programme for Government

The Scottish Government announced a Programme for Government in September. The Commission were pleased to note the commitment in the Programme to work towards implementation of our Report on Moveable Transactions [Volume 1](#) [Volume 2](#) [Volume 3](#) in 2017.

Prescription (Scotland) Act 2018

The Scottish Government carried out a [consultation](#) seeking views on the commencement, savings and transitional provisions for the commencement of the Prescription (Scotland) Act 2018. The Act implements recommendations in the Commission's [Report](#) on Prescription in 2017. The consultation closed in October.

Judicial Factors

In August the Scottish Government published their [response](#) to their consultation on our [Report](#) on Judicial Factors in 2013. The Government stated their overall intention to take forward work to implement the proposals, dependent on the pressures on future legislative activity.

DPLR Committee Report

The Commission welcomes the [Report](#) and recommendations by the Delegated Powers and Law Reform (DPLR) Committee of the Scottish Parliament, following a review of the Presiding Officer's determination in relation to Commission Bills that may be referred to the Committee. The Report also addresses wider issues in relation to implementation of Commission Bills. The Commission looks forward to further discussions and to progress being made on these matters.

Recent consultations

Aspects of Family Law: Cohabitation



The Commission's consultation on cohabitation issues closed at the end of June.

As part of the consultation, the Family Law team held a number of online consultation events (workshops, focus groups and seminars) to discuss the issues raised in the Discussion Paper and to seek views from legal and non-legal stakeholders on possible options for reform.

Thanks to everyone who responded to the Cohabitation Discussion Paper. The Family Law team is analysing the responses with a view to preparing a report with recommendations for reform.

The [Discussion Paper](#) on Cohabitation was published in February, and focused on sections 25 to 28 of the Family Law (Scotland) Act 2006. It considered, in particular, the definition of "cohabitant" and the law relating to claims for financial provision on the breakdown of a cohabiting relationship.

Commission Workshop: Consumer Contracts in Scotland

The Commission held a virtual workshop on 8 October, chaired by Commissioner, Professor Frankie McCarthy. The workshop allowed stakeholders an opportunity to discuss the Scots law implications of proposals by the Law Commission of England and Wales (LCEW) for reform of the law on sale of goods. The LCEW consultation on the proposals closed on 31 October.

The Commission team prepared a [note](#) of the discussion at the workshop, and put it on our website to assist anyone with an interest in responding to the LCEW proposals.

Further information

Further information about the Commission and our law reform work can be found on our website at www.scotlawcom.gov.uk. The website has full text versions of all of our reports and discussion papers.

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