



Scottish Law Commission

promoting law reform

(SCOT LAW COM No 259)

annual report | 2021





Scottish Law Commission

promoting law reform

The Commission was established under the Law Commissions Act 1965

Our function

To recommend reforms to improve, simplify and update the law of Scotland

Our role

To play a leading role in developing the law for the people of Scotland so that it is just, principled, responsive and easy to understand

annual report | 2021

Chair, Commissioners and Chief Executive



Lady Paton (Chair)



David Bartos



Professor Gillian Black



Kate Dowdalls QC



Professor Frankie McCarthy

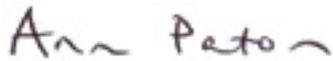


Charles Garland
(Interim Chief Executive)

Annual Report 2021

To: Keith Brown MSP, Cabinet Secretary for Justice and Veterans

We are pleased to submit to the Scottish Ministers our Annual Report for the year to 31 December 2021.



ANN PATON, *Chair*



DAVID BARTOS



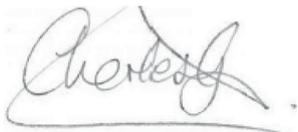
GILLIAN BLACK



KATE DOWDALLS



FRANKIE McCARTHY



Charles Garland, *Interim Chief Executive*
10 February 2022

Laid before the Scottish Parliament by the Scottish Ministers under section 3(3) of the Law Commissions Act 1965.

March 2022

SCOT LAW COM No 259
SG/2022/22

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ISBN: 978-1-9989963-3-9

Produced for the Scottish Law Commission by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA

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Chair's foreword



I am pleased to present the Scottish Law Commission's Annual Report for 2021. This proved to be a year of considerable achievement for the Commission, despite the pandemic. Although heavily dependent upon electronic communication and virtual meetings, the Commission maintained effective working relations with the Scottish Ministers; MSPs and MPs; Law Commissions in other jurisdictions; universities and academic staff; professionals and support groups; and many others. Events of particular note included a January presentation to the Public Policy Committee of the Law Society of Scotland; joint meetings with the Law Commission of England and Wales (LCEW); online presentations by project teams; an in-person evidential hearing before the Delegated Powers and Law Reform Committee at Holyrood; presentations to the annual conferences of the Society of Legal Scholars, the Law Society of Scotland, and the Family Law Association; an online seminar given by Niven Rennie, Director of the

Scottish Violence Reduction Unit; a Five Jurisdictions online conference hosted by the Jersey Law Commission; and an international online meeting with various law reform bodies in Australia and New Zealand, organised by the LCEW.

Publications in 2021 included two discussion papers, one on the mental element in homicide, and the other on heritable securities (default and post-default). A draft bill on aspects of leases (the Leases (Automatic Continuation etc.) (Scotland) Bill) was issued for consultation. The Commission's annual report for 2020, and the half-yearly e-Bulletins, made their regular appearance.

2021 also brought implementation of Commission recommendations. In April 2021, the Defamation and Malicious Publication (Scotland) Act 2021 received Royal Assent. Work continued on the transitional provisions necessary for the Prescription (Scotland) Act 2018. In September 2021 the Moveable Transactions Bill, based on the Commission's Report No 249, was included in the First Minister's Programme for Government for the first year of the current parliamentary session. Trust law reform is also expected to feature later in the parliamentary session, while judicial factors, title conditions, contract law, cohabitation, and damages for personal injury have been specifically identified as Commission reform projects which the Government wish to take forward if parliamentary time permits. We are grateful to the Scottish Ministers for their continuing support of the Commission's work, and in particular, we are grateful to the Minister for Community Safety, Ash Regan MSP.

Over the year, there were changes in personnel at the Commission. In June 2021, we were sorry to lose our Chief Executive, Malcolm McMillan, to a well-earned retirement. Malcolm has been an inspiration and an anchor for all at the Commission since his appointment in 2008, and we wish him well. In his place, we welcome our new interim Chief Executive, Charles Garland. In late August 2021 three of our four legal assistants moved on to the next stage in their

careers (the fourth remaining until the end of 2021). Four new assistants joined us. In October 2021, Iain Ritchie retired after 25 years' service in our General Office, which included the important task of making digital records of all Commission papers and reports. In the same month, Alastair Smith began work as a project manager.

2022 is the final year of our Tenth Programme of Law Reform. Some of our current projects are anticipated to continue into the Eleventh Programme: for example, homicide, heritable securities, aspects of family law, and compulsory owners' associations for tenement owners (a recent welcome reference from the Scottish Government). The Commission intends to consult and invite suggestions for new projects in the Eleventh Programme. A newly-established liaison with Scotland's Futures Forum may assist in providing long-term predictions of Scotland's legal requirements.

In these difficult and uncertain times caused by the pandemic, my thanks are due to the Commissioners and to all the staff at the Commission for their diligence, determination, and goodwill, which have made it possible to continue with law reform despite challenging circumstances.



The Rt Hon Lady Paton
Chair

Publications 2021

PUBLICATION	DATE OF PUBLICATION
Annual Report 2020 (Scot Law Com No 257)	19 March 2021
Discussion Paper on the Mental Element in Homicide (DP No 172)	27 May 2021
Discussion Paper on Heritable Securities: Default and Post-Default (DP No 173)	17 December 2021
We also published a consultation on a draft Leases (Automatic Continuation etc.) (Scotland) Bill on 10 December 2021	

Implementation of our reports 2021

The Commission's statutory function is to provide independent advice to Government on the reform of Scots law. Our recommendations for reform are contained in reports, which usually include a draft Bill that would give effect to our recommendations. Most of our reports deal with matters devolved to the Scottish Parliament and are submitted to the Scottish Ministers. Our reports are submitted to UK Ministers where the subject matter involves areas of law reserved to the UK Parliament.

Implementation of Commission recommendations is a matter for the Scottish Government and the Scottish Parliament or, where appropriate, the UK Government and the UK Parliament. The following developments towards implementation took place in 2021.

Defamation

The Defamation and Malicious Publication (Scotland) Act 2021 was passed by the Scottish Parliament on 2 March 2021 and received Royal Assent on 21 April 2021.

It implements the recommendations contained in our Report on Defamation published in December 2017.

Moveable Transactions

The Scottish Government, in its Programme for Government published in September 2021, undertook to introduce a Moveable Transactions Bill in the first year of the current session of Parliament. This would implement the proposals in our Report on Moveable Transactions published in December 2017.

Trusts

The Programme for Government also indicated that the Government is giving consideration to a longer-term programme of implementation of Scottish Law Commission Reports to be introduced during the current Parliament. These include Reports on Trusts, Judicial Factors, Contract Law, Title Conditions, Cohabitation and Damages for Personal Injury. We welcome ministerial confirmation that, of these, reform of trust law has been given priority.

Improving legislative processes

In our Annual Report for 2020 we welcomed the publication of the Report and recommendations by the Delegated Powers and Law Reform Committee of the Scottish Parliament in November 2020. This followed a review of the Presiding Officer's determination in relation to Scottish Law Commission Bills that may be referred to the Committee as the lead Committee. The Report was duly considered by the Presiding Officer who issued a revised determination on 24 March 2021. Accordingly, an SLC Bill is, amongst other criteria, one whose primary purpose is to—

- (a) simplify, modernise or improve the law to—
 - (i) ensure it is fit for purpose,
 - (ii) respond to developments, or address deficiencies, in the common law, or
 - (iii) respond to other developments in the law;
- (b) make provision which is not likely to generate substantial controversy among stakeholders.

The full determination can be found here: <https://bb.parliament.scot/#20210324>.

We look forward to its operation in the current session.

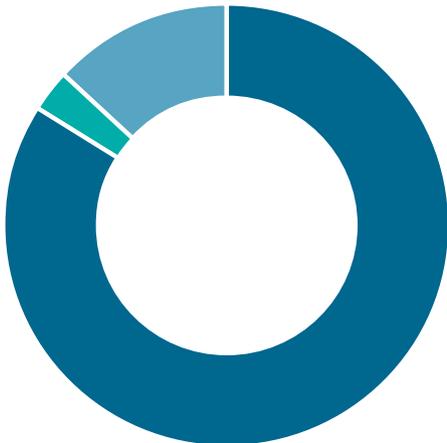
Overall implementation figures

The overall position on implementation of Scottish Law Commission reports from 1965 to December 2021 is:

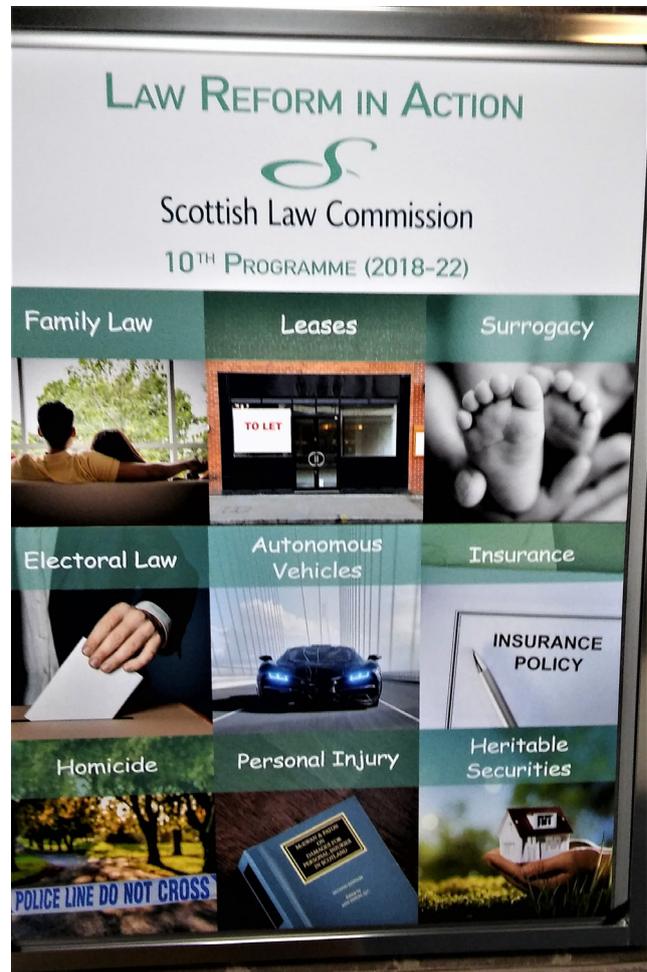
- Law reform reports published: 190
- Implemented in whole or in part: 158 (83%)
- Superseded: 5 (3%)

A table providing information about implementation of our Reports can be found on the Publications page of our website: www.scotlawcom.gov.uk

Implementation rate of Commission reports



- Implemented in whole or in part 83%
- Superseded 3%
- Rest 14%



Lady Paton, Chair, with Charles Garland, Interim Chief Executive, giving evidence to the Delegated Powers and Law Reform Committee at Holyrood on 28 September 2021



Law reform projects

The Commission's law reform work is based on our programmes of law reform and references from Scottish Ministers and from UK Ministers.

Programmes of law reform

Our Tenth Programme outlined our law reform projects for the period of five years from the start of 2018 to the end of 2022. It was published in February 2018, following extensive consultation with the legal profession and other interested parties including members of the public. The Programme was approved by Scottish Ministers and laid before the Scottish Parliament. It can be found on our website: www.scotlawcom.gov.uk.

Projects included in our Tenth Programme of Law Reform

Item 1 – Heritable securities

Project Team

Professor Frankie McCarthy, Commissioner

Stephen Crilly, Project Manager

Rebecca Gale, Legal Assistant

The reform of the law of heritable securities, first mooted in our Eighth Programme of Law Reform, has been carried over to our Tenth Programme.

This major project is reviewing the law of security over heritable property (land, and associated rights).

The law was last systematically reformed by the Conveyancing and Feudal Reform (Scotland) Act 1970, and that remains the main legislation.

The 1970 Act created the standard security over land, sometimes described as a 'mortgage'. The Act was a great improvement,

but is not without difficulty. The rules about enforcement are complex and hard to understand, and a section-by-section review of the Act also reveals numerous technical problems.

In addition, there has been considerable societal and economic change since 1970. The law should develop where that is needed to help ensure the efficient operation of the economy and of property markets.

Our first discussion paper in this project on pre-default matters was published in June 2019. We have received around 20 responses from a range of stakeholders. A second discussion paper, on default and post-default issues, was published in December 2021 and is open for consultation until 1 April 2022. A third discussion paper will follow dealing with two complex technical issues, namely: (i) mechanisms for taking security over a standard security (sometimes known as sub-security arrangements); and (ii) standard securities in respect of non-monetary obligations where the remedy sought is performance. That paper is due for publication in early 2023. Our intention is to draw together the results of consultation in respect of all three papers in a single report and draft Bill, which we aim to publish in 2025.

The focus of the team throughout the year has been on drafting, refining and finalising the second discussion paper on default and post-default matters. Maintaining good links with relevant academic and practitioner communities has been essential to this process. In March and June we held virtual meetings of our project advisory group, composed of various stakeholders in this field, to support the development of our analysis in the second discussion paper. We also held a range of informal meetings with other stakeholders, chiefly legal practitioners, to obtain expert input into issues raised by the project in practice. Professor McCarthy spoke about the work of the project at a number of events over the course of the year, including the Registers of Scotland Future of Conveyancing conference, to ensure stakeholders were kept up to date on progress with the project and the direction of travel on substantive matters.

Item 2 – Aspects of leases

Project Team

David Bartos, Commissioner
Alastair Smith, Project Manager
Daniel Buchan, Legal Assistant

A project on leases has formed part of our Ninth and now Tenth Programmes of Law Reform. In order to focus efforts on specific areas of difficulty within the current law we have chosen to concentrate on commercial leases, as residential and agricultural leases are considered to be more fully provided for under the present law.

Our first discussion paper, published in May 2018, looks at aspects of termination of commercial leases. It raised questions about tacit relocation, including notices to quit; apportionment of rent; the Tenancy of Shops (Scotland) Act 1949; irritancy; and *confusio*.

We received around 40 responses to the consultation. In the light of consultees' views and with the benefit of renewed input from our advisory group, we have reconsidered and refined the proposals put forward in our discussion paper. This has been a constructive process, one manifestation of which is that we now consider that it would be preferable to restate in clear terms the common law of tacit relocation, while reforming and modernising certain aspects including its name. We published a consultation on a draft Leases (Automatic Continuation etc.) (Scotland) Bill in December 2021 and expect to publish our report, together with a final draft of that Bill, in spring 2022.

Item 3 – Homicide

Project Team

The Rt Hon Lady Paton, Chair
Graham McGlashan, Project Manager
Daniel Buchan, Legal Assistant

This medium-term project to review the law on the mental element in homicide was announced in our Tenth Programme of Law Reform and is expected to take five years to complete. The topic had been included in some of the Commission's previous programmes, but the need to give priority to other projects meant that it has not been possible to take the matter forward until now.

In the case of *Petto v HMA* Lord Justice Clerk Gill stated that a comprehensive re-examination of the mental element in homicide was long overdue and that it was "pre-eminently an exercise to be carried out by the normal processes of law reform". We have been considering this area in depth in order to assess whether the law requires reform.

During 2021 we continued work on the project and, in the first few months of the year, refined and finalised a discussion paper covering our research on the topic. We published our Discussion Paper on the Mental Element in Homicide (DP No 172) on 27 May 2021. We ask a total of 45 questions on a wide range of issues, focusing particularly on the mental element in homicide offences and the related topic of defences. Given the range and complex nature of the issues covered, the ongoing challenges of the pandemic and the overlap of the consultation period with summer leave months, we extended our consultation period from 31 August to 15 October 2021. During the consultation period we held several online events with the Criminal Law Committee of the Law Society of Scotland, the Scottish Solicitors Bar Association and a group of criminal law academics, to promote our paper and encourage responses to it.

Particularly given these ongoing challenging times, we were delighted to receive 34 responses. We are grateful to all those who took the time to consider our paper and respond to our consultation.

Towards the end of 2021 we began to analyse these responses with a view to developing policy and preparing our recommendations for reform to the Scottish Ministers. During 2022 we hope to conduct some public opinion research on some of the issues covered by the discussion paper, to inform our policy development. We will then begin developing a final report with recommendations and a draft Bill with a view to publishing in early 2023.

Item 4 – Aspects of family law

Project Team

Kate Dowdalls QC, Commissioner
Lorraine Stirling, Project Manager
Lucy Robertson, Legal Assistant

The Aspects of Family Law project is a medium term project running from July 2018 to July 2023.

The project is divided into two phases. The first and current phase involves a review of the law relating to cohabitants (specifically the definition of "cohabitant" and financial provision on cessation of cohabitation otherwise than on death), to be found in sections 25 to 28 of the Family Law (Scotland) Act 2006. We began the scoping exercise for a potential topic for the second phase of our project towards the end of 2021: a review of the civil remedies available for domestic abuse.

This would focus, in particular, on whether the existing legislative framework is adequate and sufficient to provide victims of domestic abuse with prompt and effective protection and remedies. A final decision on whether we will review this topic will be made in 2022.

We spent much of 2021 analysing the responses we received to our Discussion Paper on Cohabitation which was published in 2020, having supplementary meetings with stakeholders and our advisory group to discuss these responses and potential proposals for reform, and providing updates on our project at a number of events and conferences.

We have also been working on our Report on Cohabitation which sets out our recommendations for reform to the Scottish Ministers and on preparation of a draft Bill which would implement these changes. We hope to be in a position to publish the report and draft Bill in late spring/ early summer 2022.

Item 5 – Surrogacy

Project Team

Professor Gillian Black, Commissioner
Alison Fraser, Project Manager
Lucy Robertson, Legal Assistant

We are carrying out a joint project on surrogacy with the Law Commission of England and Wales. As the subject matter is reserved in terms of the Scotland Act 1998, the Department of Health and Social Care has asked us to undertake the project as a reference and to work alongside the Law Commission. For further details please see page 17 under the heading "Joint projects".

Item 6 – Damages for personal injury

Project Team

The Rt Hon Lady Paton, Chair

Alison Fraser, Project Manager

Hannah Renneboog, Legal Assistant

Work on our project on damages for personal injury (item 7 of our Tenth Programme of Law Reform) began in the summer of 2019. We are working towards the publication of a discussion paper in early 2022.

The discussion paper will cover four topics, three of which relate to provisions in Part II of the Administration of Justice Act 1982 (“the 1982 Act”). They are: (i) awards of damages in respect of services provided to and by an injured person (sections 8 and 9) and specifically whether the restriction to relatives should continue to apply; (ii) what deductions should be made from awards of damages (section 10); and (iii) whether there is a problem with the way that awards of provisional damages operate in the context of asbestos-related disease claims and, if so, how this may be reformed. The 1982 Act implemented recommendations made by the Commission in our 1978 Report on Damages for Personal Injuries (Report on (1) Admissibility of Claims for Services and (2) Admissible Deductions).

There has been substantial social change since the provisions in the 1982 Act referred to above were enacted with the result that it is now appropriate to review them. Another reason for undertaking a review at this time is that the developing case law has demonstrated that some of the provisions of the 1982 Act appear to be unduly complex or to give rise to uncertainty.

The fourth topic that will be covered by the discussion paper is the management of awards of damages made for the benefit of children. An award of damages to meet, for example, the costs of care or accommodation for the rest of a child’s lifetime may be extremely substantial.

The discussion paper will examine the various provisions currently available to ensure that such damages are invested appropriately in the best interests of the child, and so that the needs of the child will be protected for as long as that is required, and will seek views on whether any reform is required.

An advisory group of experts in the field of damages for personal injury has assisted us in our consideration of all four topics and we held two meetings with them in 2021. We also met with the Accountant of Court and her colleagues. We are grateful to the advisory group and the Accountant of Court for their valuable contribution to this project.

References from Scottish Ministers

In addition to our work on topics included in our programmes of law reform, we also sometimes undertake work in response to references from Ministers. On 10 January 2022 the Commission received a reference from Scottish Ministers in relation to the establishment of compulsory owners' associations in Scottish tenement properties.

This reference followed from the Final Recommendations Report of the Scottish Parliamentary Working Group on the Maintenance of Tenement Scheme Property published in June 2019.

We estimate that a report in this project will be published in spring 2026.

**Our 2021-22 legal assistants from left to right:
Lucy Robertson, Daniel Buchan, Rebecca Gale and Hannah Renneboog**



Joint projects

The Commission also undertakes joint law reform projects with the Law Commission of England and Wales.

Joint projects with the Law Commission of England and Wales

Automated Vehicles

Project Team

David Bartos, Commissioner

Alastair Smith, Project Manager

Hannah Renneboog and **Elizabeth Connaughton**, Legal Assistants

This joint project has involved a wide-ranging review of the legal framework surrounding the safe and effective deployment of automated vehicles on British roads. The review was requested by the UK Government's Centre for Connected and Autonomous Vehicles (CCAV) and ran from 2018 to 2022. It aims to make the UK a premier development location for self-driving vehicles.

We have now published three joint Consultation Papers. The first examined the law in a range of different fields, including criminal offences and civil liability, how safety can be assured both before and after automated driving systems are deployed, and how current road rules might need to be adapted to take account of artificial intelligence. The second focused on passenger services and public transport; it invited comments on a suggestion that there be a single national scheme of operator licensing for highly automated road passenger services (or HARPS), and asked how they would be integrated with public transport. Questions of accessibility, notably for those with a disability, and of road pricing were also raised.

We published the third consultation paper in December 2020. It contained proposals for a comprehensive new legal framework aimed at ensuring the safety of automated vehicles. This includes a safety assurance scheme for monitoring performance and software updates throughout a vehicle's life; a clear definition of the responsibilities of drivers, 'users in charge', and fleet owners; and obligations on manufacturers and technology developers in relation to the safety of their vehicles. There are also proposals for some new criminal offences, for example relating to interference with automated vehicles, and wrongdoing by corporate bodies and their senior management.

Our joint report was published in January 2022.

Surrogacy

Project Team

Professor Gillian Black, Commissioner

Alison Fraser, Project Manager

Lucy Robertson, Legal Assistant

A joint project on surrogacy is item 6 of our Tenth Programme of Law Reform and is also the subject of a reference from the Department of Health and Social Care.

Surrogacy describes the situation where a surrogate bears a child on behalf of another person or persons who intend to become the child's parent or parents for all purposes. The intended parents can become the legal parents of the child born to the surrogate by obtaining a parental order from a court after the child has been born.

In June 2019, we published a joint Consultation Paper – Building families through surrogacy: a new law. The consultation period closed in October 2019 and we received 680 responses, including 30 from respondents in Scotland. Much of 2021 has been spent examining the detailed aspects of the proposal in light of these responses and further developing our proposals for law

reform. We will be working towards preparing a joint report and a draft Bill for autumn 2022.

The main proposal in the consultation paper is a new pathway to parenthood which would take a different approach to the current route of obtaining a parental order and better reflect the intention of the surrogates and the intended parents and the purpose of the surrogacy arrangement. Under the new pathway, intended parents would be recognised as the legal parents without going through the current judicial process of seeking a parental order. It would also provide for important conditions and safeguards to protect the interests of any child born of the surrogacy arrangement, the surrogate, and the intended parents. The parental order route would still remain, and we have also considered reform of elements of this process in line with the issues raised in the consultation paper.

Further details about the proposed new pathway and other key provisional proposals can be found in the joint consultation paper and accompanying summary.

Insurance contract law

The Consumer Insurance (Disclosure and Representations) Act 2012, and the Insurance Act 2015 as amended by the Enterprise Act 2016, Part 5, have given effect to all of our recommendations to date in our joint project on insurance with the Law Commission of England and Wales.

There is one remaining issue which the Commissions wished to address, namely insurable interest in the context of life-related insurance. In 2018 we consulted on a working draft of a Bill the aim of which was to address issues in the current law of insurable interest which appear to be hindering the development of socially useful life-related insurance products. Since then, competing priorities at the lead Commission, the Law Commission of England and Wales, have meant that it has not yet been possible to bring this project to a conclusion.

Further information about our law reform projects is available on the law reform projects page on our website: www.scotlawcom.gov.uk

Progress on our law reform projects: summary

Projects under our Tenth Programme

PROJECT	POSITION AT THE END OF 2021
Heritable securities (Tenth Programme, item 2)	A discussion paper on pre-default issues was published in June 2019, and a second discussion paper on default and post-default issues was published in December 2021. Consultation on this second paper closes on 1 April 2022. We are working towards publication of a third discussion paper on sub-securities and non-monetary obligations in early 2023.
Aspects of leases (Tenth Programme, item 3)	Working on a report and draft Bill to be published in spring 2022.
Homicide (Tenth Programme, item 4)	Analysing responses to the Discussion Paper on the Mental Element in Homicide published in May 2021, with a view to developing policy and working towards publication of a report and draft Bill in early 2023.
Aspects of family law (Tenth Programme, item 5)	Working on a report and draft Bill on Cohabitation to be published in late spring/ early summer 2022.
Surrogacy (Tenth Programme, item 6)	See table below under "Joint projects with the Law Commission of England and Wales".
Damages for personal injury (Tenth Programme, item 7)	Working on a discussion paper to be published in early 2022.

References from Scottish Ministers

PROJECT	POSITION AT THE END OF 2021
No references were received during the reporting year; however, a reference in relation to tenement law: compulsory owners' associations was received on 10 January 2022.	

Joint projects with the Law Commission of England and Wales

PROJECT	POSITION AT THE END OF 2021
Automated vehicles	Joint Consultation Paper 3 on Automated Vehicles: a regulatory framework for automated vehicles was published in December 2020. The expectation in December 2021 that a joint report would be published in January 2022 was realised.
Surrogacy	Policy considerations within the Commissions have been ongoing with a view to producing a joint report and draft Bill in autumn 2022.
Insurance contract law	Work suspended due to other priorities at the Law Commission of England and Wales.

Consolidation and statute law repeals

Consolidation

Project Team

The Rt Hon Lady Paton, Chair

Consolidation is an important way of tidying up the statute book. Work on consolidation involves preparing a draft Bill to bring together earlier enactments on an area of law with the aim of making the legislation easier to use.

Any consolidation project undertaken by the Commission requires agreement with the Scottish Government, including in particular the provision of support and resources for any project. A Government policy lead is required to provide policy direction and guidance on the area being consolidated; and a significant legislative drafting resource has to be provided to prepare any Bill.

The Commission did not carry out any work this year on consolidation of legislation.

Statute law repeals

Project Team

The Rt Hon Lady Paton, Chair

One of the Commission's functions is to recommend the repeal of obsolete legislation. We undertake this work jointly with the Law Commission of England and Wales.

The purpose of repealing obsolete legislation is to modernise and simplify the statute book, reduce its size and make it easier for people to use. This in turn helps to avoid unnecessary costs. It also helps to avoid people being misled by outdated legislation that appears to be current law.

The Commissions present their proposals to Government as statute law repeals reports, published with a draft Bill.

Since 1965, 19 such Bills have been enacted, repealing more than 3,000 Acts. The Commissions last published a report, the Twentieth Report and Draft Statute Law (Repeals) Bill, on 3 June 2015. The Report proposes the repeal of more than 200 old laws that are cluttering up the statute book.

The Bill awaits implementation by the UK Government. The Commission is not in the meantime carrying out any further statute law repeal work.

Promoting law reform

The Commission works to promote law reform, not only in Scotland and the UK, but internationally.

As the independent law reform body for Scotland we liaise closely with Scottish Ministers: in particular the Cabinet Secretary for Justice and Veterans, the Minister for Community Safety, and the Minister for Parliamentary Business; and with Scottish Government officials. We assist them in the implementation of Commission recommendations in devolved areas.

In relation to reserved areas of Scots law we liaise with UK Ministers, the Office of the Secretary of State for Scotland, and with the Advocate General for Scotland and his officials.

The Commission has strong links with the Scottish Parliament. Briefings on our recommendations are regularly provided by the Commission to Committees of the

Parliament and their officials. For example, following its establishment in June 2021 after the Parliamentary elections the previous month, the Delegated Powers and Law Reform Committee took evidence from our Chair and Interim Chief Executive in September 2021.

The Commission continues to engage closely with the legal profession in Scotland, in particular the Law Society of Scotland and the Faculty of Advocates. We also derive much assistance from academics and others with an interest in our project work. We are very grateful to all who serve as members of our advisory groups on law reform projects, and to those who respond to our consultations. Their contributions contribute significantly to the law reform process.

The Commission has contacts with law reform bodies throughout the world, and a close relationship in particular with the Law Commission of England and Wales with whom we carry out joint law reform projects. We also liaise regularly with law reform bodies in Northern Ireland, Ireland and Jersey.

Publications planned for 2022

In 2022 the Commission will continue to work on projects in our Tenth Programme of Law Reform. We will also continue work with the Law Commission of England and Wales on joint law reform projects referred to us by UK Ministers.

The Commission aims to publish:

- a discussion paper on damages for personal injury (in early 2022);
- a report and draft Bill on aspects of leases (in spring 2022); and
- a report and draft Bill on cohabitation (in late spring/ early summer 2022).

As regards joint law reform work with the Law Commission of England and Wales, a joint report on automated vehicles was published in January 2022; and we intend to publish a joint report and a draft Bill on surrogacy in autumn 2022.

Commissioners and staff

(as at 31 December 2021)

Commissioners

The Rt Hon Lady Paton, *Chair**
David Bartos
Professor Gillian Black*
Kate Dowdalls QC
Professor Frankie McCarthy

Interim Chief Executive

Charles Garland

Project Managers (Solicitors)

Stephen Crilly
Alison Fraser
Graham McGlashan
Alastair Smith*
Lorraine Stirling*

Legal Assistants

Daniel Buchan
Elizabeth Connaughton* (until end December 2021)
Rebecca Gale
Hannah Renneboog
Lucy Robertson

Librarian

Emma McLarty*

Office Manager

Helen Stevenson*

Executive Assistant

Wilma Campbell

Administrative Staff

Gordon Speirs

* Part-time staff

The Commission's running costs 2021

The Scottish Law Commission is funded by the Scottish Government. Our running costs for 2021 were offset by payments received from Historic Environment Scotland for use of part of our office accommodation. In addition to the expenditure figures below we report our spending on matters such as public relations, overseas travel, hospitality and entertainment, and external consultancy on our website as required by section 31 of the Public Services Reform (Scotland) Act 2010.

EXPENDITURE	YEAR TO 31 DECEMBER 2021
Salaries – Commissioners (including national insurance contributions, superannuation payments and pensions to former Commissioners)	£652,356.00
Salaries – Chief Executive and legal staff (including national insurance contributions, superannuation payments and consultants' fees and expenses)	£735,909.00
Salaries – Administrative staff (including national insurance contributions and superannuation payments)	£134,104.00
Accommodation (including maintenance, rates and utilities)	£89,648.00
Printing and publishing (including costs of books and library purchases, binding, maintenance of equipment, publishing costs of publications, photocopying and stationery)	£24,807.00
Telephone and postage	£4,126.00
Travel and subsistence	£62.00
Miscellaneous (including the provision and maintenance of the IT system, training of staff, office services and hospitality)	£27,079.00
Total	£1,668,091.00

Scottish Law Commission www.scotlawcom.gov.uk

How we undertake our law reform projects

- **Research** into the existing Scots law and review of comparative law
- **Analysis of problems** with the current law
- **Development of policies** for reform
- **Consultation** on proposed reforms
- **Consideration** of consultation responses
- **Review of policy** in the light of consultation
- **Publication of a report** to Ministers with recommendations for reform, including in most cases a draft Bill to implement the recommendations. Implementation of the recommendations in our reports requiring legislation is taken forward in the Scottish Parliament or, in reserved areas of law, in the UK Parliament at Westminster.
- **Role of advisory groups.** To assist us with our projects we often set up advisory groups of people with expertise in the relevant areas of law. These small groups provide valuable assistance and guidance to our project teams.

For more information about the Commission please contact:

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This Report is available on our website.





Produced for the Scottish Law Commission by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA

This publication is available on our website at <http://www.scotlawcom.gov.uk>

ISBN: 978-1-9989963-3-9

PPDAS1035370 (03/22)