



Scottish Law Commission

promoting law reform

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ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION
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BEFORE 0001 HOURS 18 FEBRUARY 2025

TENANCY OF SHOPS (SCOTLAND) ACT 1949

The Scottish Law Commission today publishes a Report on *Aspects of Leases: Tenancy of Shops (Scotland) Act 1949*.

The Tenancy of Shops (Scotland) Act 1949 applies to leases of premises used for retail, food and drink hospitality, beauty services, and wholesale and warehousing. The Act enables tenants in occupation of such premises to apply to the sheriff court for a one-year renewal of the lease.

The 1949 Act was last reviewed in the 1960s. Outdated and rarely used, it is unnecessary for modern commercial conditions. Vague in its terms, the Act causes unpredictable outcomes and its use is unaffordable for the small business tenants it was meant to protect. If used at all, it can be deployed by large retailers as a negotiating tactic to pressurize their landlords.

The Commission considered keeping the Act as it is, reforming it, replacing it with a mandatory notice to quit scheme, or simply repealing it.

Following a comprehensive consultation on these options and review of stakeholders' views the Report finds that simple repeal is the best route forward. Repeal will end any discrimination between the businesses covered and not covered by the Act. Instead, if the Leases (Automatic Continuation etc) (Scotland) Bill currently being considered by the Scottish Parliament is passed, then all business tenants will benefit from the new rules on expiry of leases in that Bill.

David Bartos, the lead Commissioner for the project, said:

“The Tenancy of Shops (Scotland) Act 1949 is an outdated piece of regulation that doesn’t work for the small businesses that it was intended for. By repealing it, all tenant businesses should be covered by the same modern rules regulating the expiry of a lease which the Commission recommended in 2022. These rules are currently in a Bill being considered by the Scottish Parliament.”

FURTHER INFORMATION SECTION

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chair is the Rt Hon Lady Paton, a Court of Session judge. The other Commissioners are Ann Stewart, Professor Frankie McCarthy, Professor Gillian Black and David Bartos. The Chief Executive is Rachel Rayner.
2. Further information can be obtained by contacting Julie Bain, Scottish Law Commission, Parliament House, 11 Parliament Square, Edinburgh EH1 1RQ (Tel: 0131 244 6605; email info@scotlawcom.gov.uk)
3. The paper will be available on our website at <https://www.scotlawcom.gov.uk> as early as possible on 18 February 2025.