

Autumn/Winter 2023

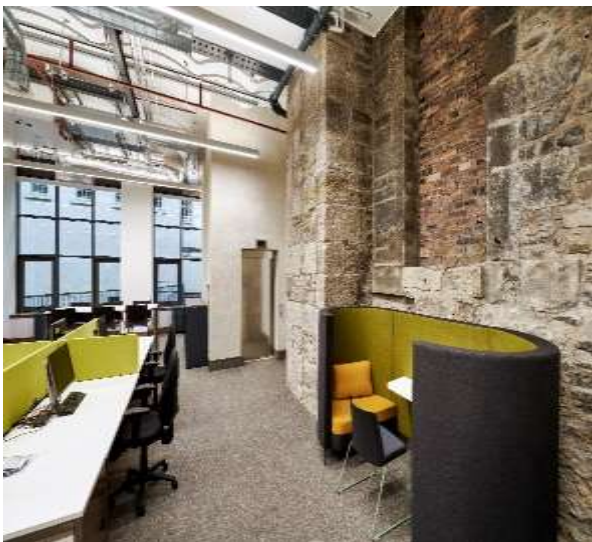
e-bulletin

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

Welcome

Welcome to the Scottish Law Commission's regular bulletin. We aim to keep you informed about what we have been up to and what we have coming up.

Our current law reform projects are listed below. Some are mentioned later in this Bulletin. For further information on any particular project please click on the link.



Partial view of the open plan area in our new office in Parliament House

Current SLC projects:

- [Heritable securities](#)
- [Compulsory owners' associations \(tenements\)](#)
- [Aspects of the law of leases](#)
- [Homicide](#)
- [Aspects of family law](#)
- [Damages for personal injury](#)

Statute law work

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

Current Programme of Law Reform

- [11th Programme](#)

News

Commissioner news

In November 2023 it was announced that Lady Paton has been reappointed as Chair for a further two year period. Her term now runs until the end of 2025. Lady Paton will continue to divide her time between chairing the Commission and sitting as a judge in the Inner House of the Court of Session.



Lady Paton, Chair of SLC

In other Commissioner news we await the outcome of the recent trawl for a part-time Commissioner to lead on a new project on execution of documents which is contained in our Eleventh Programme of Law Reform.

Recent publications

Discussion Paper (no. 3) on Heritable Securities: Non-monetary securities and sub-securities

In June 2023 we published our third and final discussion paper in our review of the law of heritable securities. The need for this paper was identified following consideration of the consultation responses to our first discussion paper which covered pre-default issues relating, in particular, to standard securities. It was informed by helpful discussions with stakeholders about the use of non-monetary securities and sub-securities in practice.

A 'non-monetary security' secures an obligation to do something other than pay a debt. An example is the grant of a heritable security in respect of an obligation of a land owner to sell their land under an option agreement. 'Sub-securities', in this context, describe the situation where a heritable security is taken over an existing heritable security. Typically the security property in a transaction involving a heritable security will be land, but in this scenario the security property is itself a security. Both of these types of security create interesting and complex challenges which are discussed in the paper.

Fuller details of the topics covered and of the proposals for reform can be seen via the link to the project webpage on the first page of this Bulletin.

Implementation

Trusts and Succession (Scotland) Bill

The Trusts and Succession (Scotland) Bill was introduced into the Scottish Parliament in November 2022 and passed Stage 3 on 20 December 2023. Once in force, the Bill will implement our wide-ranging report on trust law and will update and modernise the current law which is largely still to be found in the Trusts (Scotland) Act 1921. (Its application to pension trusts will depend on a statutory instrument – a “section 104 order” – being passed at Westminster.) The Bill will also make several changes to succession law, some of which stem from recommendations made by the Commission.

The Bill can be found on the Scottish Parliament’s website here: <https://www.parliament.scot/bills-and-laws/bills/trusts-and-succession-scotland-bill>, and information about the trusts project, including a link to our report, can be seen here: <https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/completed-projects/trusts/>.

Judicial Factors (Scotland) Bill

The Judicial Factors (Scotland) Bill was introduced into the Scottish Parliament on 5 December 2023. It is based on a [Commission report](#) from 2013. A judicial factor is an officer appointed by the court to collect, hold and administer property in accordance with the relevant law, and all judicial factors are supervised by the Accountant of Court. Judicial factories have been in use in Scotland for centuries. However, the main legislation dates from the mid to late 19th century and, unsurprisingly, this has led to questions as to how the law should operate in current times and what powers judicial factors should have.

The Act can be found on the Scottish Parliament’s website here: <https://www.parliament.scot/bills-and-laws/bills/judicial-factors-scotland-bill>.

Automated Vehicles Bill

The Automated Vehicles Bill was introduced into the House of Lords in Westminster on 9 November 2023. It will give effect to the recommendations in our joint report published with the Law Commission of England and Wales in 2022. At present, legislation does not provide a suitable framework to assure the safety of automated vehicles nor to determine responsibilities in their use, and the Bill aims to rectify this. In doing so it will seek to enable the realisation of benefits from driving automation, for example through expected improvements in road safety, mobility and productivity.

The Bill can be found on the UK Parliament’s website here: <https://bills.parliament.uk/bills/3506>, and information about the project, including a link to our joint report, can be seen here: <https://www.scotlawcom.gov.uk/law-reform/law-reform-projects/completed-projects/automated-vehicles/>.

Other projects

We have been made aware that Scottish Government officials are to begin work on three further Commission reports, namely those on an Improved Scheme for Financial Provision on Cohabitation Breakdown (2022); on Aspects of Leases: Termination (2022); and on Review of Contract Law (2018). However, there are no decisions at this stage about any bills. Further details can be seen in the letter from the Minister for Victims and Community Safety to Lady Paton here: https://www.scotlawcom.gov.uk/files/3916/9720/0227/Correspondence_from_the_Minister_for_Victims_and_Community_Safety_to_Lady_Paton_-_5_September_2023.pdf.

Engagement

In November 2023 we hosted the annual meeting of the law reform bodies from the UK, Ireland and Jersey. This was the first in person event since 2019, and it allowed us to deepen relations and contacts which had been maintained in the interim by means of virtual meetings. Although we have common goals and often work in similar legal areas we nevertheless operate with different backgrounds and processes, and sharing information in this way is mutually beneficial and efficient. Regrettably the Northern Ireland Law Commission, which is currently non-operational, was not able to be represented.



Gathering of representatives of law reform bodies of UK, Ireland and Jersey



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 as well as other material.

Follow us on X (formerly Twitter): [@scotlawcom](https://twitter.com/scotlawcom)

To see videos about the Commission and our work: <https://www.youtube.com/channel/UCMHecvTB9TgJE8G7t8RpYRA>.

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