

**Winter 2025**

**e-bulletin**

**Keeping you up to date with Scottish Law Commission news and publications**

## 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.

## Recent publications

### Report on the Mental Element in Homicide

Our [report](#) on the mental element in homicide was published on 25 September 2025. The Report made a number of recommendations seeking to simplify, clarify and modernise the law of homicide in Scotland. The recommendations included:

- removing the vague and emotive concept of “wickedness” from the definition of murder, without changing the type of criminal conduct properly recognised as murder;
- providing a clear distinction between the crimes of murder and culpable homicide;
- providing a statutory definition of culpable homicide reflecting the current common law offence;
- clarifying that Scots homicide law does not have a doctrine of constructive malice;
- removing the outdated and gendered defence of sexual infidelity provocation.

The Report is now with the Scottish Ministers for consideration.

## **Report on Tenement law: compulsory owners' associations**

Our [report](#) on Tenement law: compulsory owners' associations was published on 11 December 2025. The Report follows from a reference received from the Scottish Government in 2022. That reference asked us to make recommendations to implement a proposal of the Scottish Parliament's Working Group on Tenement Maintenance that owners' associations should be established for all of Scotland's tenement buildings. Our Report and the draft Bill set out an appropriate legislation basis for implementing the Working Group's proposal should the Scottish Government be minded to progress it.

Our recommendations include:

- The establishment of owners' associations in tenement properties by operation of law at specified points in time;
- The imposition of four "key duties" on each owners' association, namely:
  - o A duty to appoint a manager for the association;
  - o A duty to hold an annual general meeting;
  - o A duty to approve a budget in respect of association costs for each financial year; and
  - o A duty to apply to have certain information noted on the property registers in respect of the tenement.
- The power to enforce the "key duties" via a remedial management process following an order from the First-tier Tribunal for Scotland;
- Having tenement disputes dealt with principally in the First-tier Tribunal rather than the sheriff court as at present; and
- A default set of association rules governing the operation of the association, together with provision to move towards a more standardised form of tenement title conditions by which flat owners can modify the default rules.

The Report is now with the Scottish Ministers for consideration.

# News

## Chair of the Scottish Law Commission retiring



Lady Paton has been the Chair of the Scottish Law Commission since January 2019 and her term as Chair will end on 31 December 2025. The Commission is very grateful to Lady Paton for her leadership, kindness and support to us all at the Commission, for her work leading the damages and homicide projects and leading us through the move to Parliament House. Lady Paton will be very much missed by us all at the Commission.

We look forward to announcing our new Chair in 2026.

## Commissioner appointed

We are delighted that Roisin Higgins KC has been appointed a Commissioner and will be joining us in January 2026. She has a wealth of experience in complex disputes and litigation relating to intellectual property law, property law, commercial law and construction law. She will be leading the Commission's projects relating to leases and consolidation of nature conservation law.

## Legal Assistants

At the end of August we welcomed our new Legal Assistants – Catherine Marney, Beth Morley, Alex Ortiz and Ailidh Robinson. We are grateful for all the work done by our previous Legal Assistants - Rebecca Farquhar, Natalie Fowler, Rachael Irvine and Julia Lopatka.

## 60th Anniversary

As part of our 60<sup>th</sup> anniversary we have been running a social media campaign highlighting 60 Acts that contain some provisions that have been derived from Commission Reports – **#60Billsfor60years**. This has shown the wide range of work undertaken by the Commission. The Acts that have been highlighted are:

1. Double Jeopardy (Scotland) Act 2011	31. Unfair Contract Terms Act 1977
2. Damages (Scotland) Act 2011	32. Adults with Incapacity (Scotland) Act 2000
3. Sexual Offences (Scotland) Act 2009	33. Age of Legal Capacity (Scotland) Act 1991
4. Title Conditions (Scotland) Act 2003	34. Bankruptcy (Scotland) Act 2016
5. Automated Vehicles Act 2024	35. Civil Evidence (Scotland) Act 1988
6. Moveable Transactions (Scotland) Act 2023	36. Supply of Goods (Implied Terms) Act 1973
7. Defamation and Malicious Publication (Scotland) Act 2021	37. Recognition of Divorce and Legal Separations Act 1971
8. Trusts and Succession (Scotland) Act 2024	38. Town and Country Planning (Scotland) Act 1972
9. Land Registration etc. (Scotland) Act 2012	39. Damages (Scotland) Act 1976
10. Abolition of Feudal Tenure etc (Scotland) Act 2000	40. Presumption of Death (Scotland) Act 1977
11. Family Law Act 1986	41. Administration of Justice Act 1982
12. Private International Law (Miscellaneous Provisions) Act 1995	42. Married Women's Policies of Assurance (Scotland) (Amendment) Act 1980
13. Tenements (Scotland) Act 2004	43. Education (Scotland) Act 1980
14. Criminal Justice (Scotland) Act 1995	44. Incest and Related Offences (Scotland) Act 1986
15. Medical Act 1983	45. Matrimonial and Family Proceedings Act 1984
16. Legitimation (Scotland) Act 1968	46. Prescription and Limitation (Scotland) Act 1984
17. Prescription and Limitation (Scotland) Act 1973	47. Law Reform (Husband and Wife) (Scotland) Act 1984
18. Consumer Protection Act 1987	48. Children (Scotland) Act 1995
19. Matrimonial Homes (Family Protection) (Scotland) Act 1981	49. Law Reform (Parent and Child) (Scotland) Act 1986
20. Bankruptcy (Scotland) Act 1985	50. Vulnerable Witnesses (Scotland) Act 2004
21. Law Reform (Miscellaneous Provisions) (Scotland) Act 1985	51. Court of Session Act 1988
22. Requirements of Writing (Scotland) Act 1995	52. Extradition Act 1989
23. Contract (Scotland) Act 1997	53. Carriage of Goods by Sea Act 1992
24. Bankruptcy and Diligence etc. (Scotland) Act 2007	54. Crofters (Scotland) Act 1993
25. Legal Writings (Counterparts and Delivery) (Scotland) Act 2015	55. Damages Scotland Act 1993
26. Contract (Third Party Rights) (Scotland) Act 2017	56. Third Parties (Rights against insurers) Act 2010
27. Divorce (Scotland) Act 1976	57. Coinage Act 1971
28. Family Law (Scotland) Act 1985	58. Partnerships (Prosecution) (Scotland) Act 2013
29. Companies (Floating Charges and Receivers) (Scotland) Act 1972	59. Law Reform (Miscellaneous Provisions) (Scotland) Act 1968
30. Adoption (Scotland) Act 1978	60. Salmon and Freshwater Fisheries (Consolidation) (Scotland) Act 2003

Do check out [Scottish Law Commission | LinkedIn](#) for more information.

## Updates

### Current Projects

Our current law reform projects are listed below. For further information on any particular project please click on the link

- [Heritable securities](#)
- [Compulsory owners' associations \(tenements\)](#)
- [Aspects of family law](#)
- [Execution of documents](#)
- [Executry](#)

### Current Programme of Law Reform

- [11th Programme](#)

## Project on heritable securities

Work is underway to instruct a draft Bill for this project, and we will take this forward in collaboration with colleagues in Parliamentary Counsel Office.

## Project on execution of documents

Our work on this project continues and we are in the process of drafting a Discussion Paper setting out our research and initial proposals for law reform which will, in due course, go out to public consultation.

## Project on executry

We started working on this project earlier this year and have been scoping out the project and making contacts with people interested in the project. We have been pleased with the engagement and support so far from solicitors, advocates and academics working in this area, and look forward to moving on to the Discussion Paper stage in the New Year.

# Implementation

## Contract (Formation and Remedies) (Scotland) Bill

This Bill was introduced in the Scottish Parliament on 2 October 2025 and the [stage 1 report](#) was published on 10 December 2025. The Bill implements our [Report on Review of Contract Law: Formation, Interpretation, Remedies for Breach, and Penalty Clauses](#) that was published in 2018. We are very grateful to Professor Hector MacQueen, who was the lead Commissioner for the project, and who has been continuing to provide assistance with the Bill.

Information about the Bill can be found on the [Scottish Parliament website](#).

## Leases (Automatic Continuation etc.) (Scotland) Bill

This Bill was introduced in the Scottish Parliament and sought to implement our [Report on Aspects of Leases - Termination of Leases](#) published in 2022. However on 10 September 2025 the Scottish Ministers [withdrew](#) the Bill. Whilst we were disappointed to see this, we acknowledge that once our reports are published it is for the Scottish Government, or in some cases the UK Government, to decide when and how to respond to the report.



### Further information

Further information about the Commission and our law reform work can be found on our website at [www.scotlawcom.gov.uk](http://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 LinkedIn - [Scottish Law Commission | LinkedIn](#) and see videos about the Commission and our work: <https://www.youtube.com/channel/UCMHecvTB9TgJE8G7t8RpYRA>.

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