

ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION  
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### Tenement law: compulsory owners' associations

The Scottish Law Commission has today published its Report on Tenement law: compulsory owners' associations.

A tenement is any building made up of flats or otherwise divided horizontally into sections. This definition includes traditional Victorian tenements, modern apartment buildings, high flats and larger properties converted into flats, amongst other things. Tenements may include a mixture of residential and commercial units.

The condition of Scotland's tenements has been in decline for many years. In March 2018, a Scottish Parliament Working Group was convened to explore ways in which legal, technical and cultural barriers to tenement maintenance could be overcome.

The Working Group published its Final Recommendations Report in June 2019. The Working Group Report contained three interconnected recommendations:

- Recommendation 1: Tenement buildings should be subject to a building condition inspection every five years.
- Recommendation 2: An owners' association should be established for every tenement building.
- Recommendation 3: A building reserve fund should be established for every tenement building.

On 10th January 2022, the Scottish Law Commission received a reference from the (then) Cabinet Secretary for Social Justice, Housing and Local Government. The reference asked us to make recommendations for reform to implement recommendation 2.

The essence of recommendation 2 is that the owner of every tenement flat in Scotland should be required to enter into an association with the owners of the other flats in the same building. The key purpose of the association would be to manage maintenance and repair of the building fabric. The association would have legal personality separate from the flat owners, enabling it to contract for maintenance work and hold funds in its own name. Our Report and draft Bill set out an appropriate

legislative basis for implementing this recommendation 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:
  - A duty to appoint a manager for the association;
  - A duty to hold an annual general meeting;
  - A duty to approve a budget in respect of association costs for each financial year; and
  - 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.

Professor Frankie McCarthy, Lead Commissioner for this project said:

"The statistics on the state of disrepair of Scotland's tenement housing stock cause considerable concern. Those statistics underpin the recommendations of the Working Group on Tenement Maintenance, one of which was to establish owners' associations in all of Scotland's tenement buildings. The Report we have now published sets out our proposals for reform in order to implement that recommendation should the Scottish Government wish to do so. The introduction of owners' associations will represent a significant change for flat owners in a complex area of law, and there are a number of cross-cutting policy considerations discussed in the Report which the Scottish Government will wish to consider. While owners' associations will not be a standalone solution to the difficulties encountered with the management of multi-owner buildings, we hope that, if pursued, they will be a positive addition to the effort to improve the condition of this vital element in Scotland's housing stock."

## **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 Professor Gillian Black, Professor Frankie McCarthy and Ann Stewart. The Chief Executive is Rachel Rayner.

2. Further information can be obtained by contacting Stephen Crilly, Scottish Law Commission, Parliament House, 11 Parliament Square, Edinburgh EH1 1RQ (Tel: 0131 244 6605; email [info@scotlawcom.gov.uk](mailto:info@scotlawcom.gov.uk)).

3. The paper will be available on our website at <https://www.scotlawcom.gov.uk> from 11am on Thursday, 11 December 2025.