



Scottish Law Commission

promoting law reform

(SCOT LAW COM No 257)

annual report | 2020





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 | 2020

Chair, Commissioners and Chief Executive



Lady Paton (Chair)



David Bartos



Professor Gillian Black



Kate Dowdalls QC



Professor Frankie McCarthy

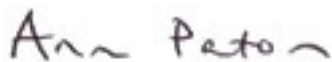


Malcolm McMillan
(Chief Executive)

Annual Report 2020

To: Humza Yousaf MSP, Cabinet Secretary for Justice

We are pleased to submit to the Scottish Ministers our Annual Report for the year to 31 December 2020.



ANN PATON, *Chair*



DAVID BARTOS



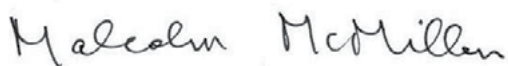
GILLIAN BLACK



KATE DOWDALLS



FRANKIE McCARTHY



Malcolm McMillan, *Chief Executive*

25 February 2021

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

March 2021

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Chair's foreword



Everyone at the Scottish Law Commission rose to the challenge of the Covid-19 pandemic, continuing to work from home on the Tenth Programme. Enhanced digital and electronic skills, virtual meetings, and emphasis on orderly preparation and presentation, resulted in work proceeding with commitment and enthusiasm. Some events involving the Commission occurred before lockdown, in particular a splendid ceremony for the installation of Lord Reed as President of the UK Supreme Court in January 2020; a presentation to the Government Legal Service for Scotland at Victoria Quay in February 2020; a farewell dinner to mark the major contribution made by departing Commissioners Caroline Drummond and David Johnston QC; and a meeting with the Criminal Law Committee of the Law Society of Scotland to discuss possible law reforms. But after 23 March 2020, everything became

virtual. Planned events, such as well-deserved retirement parties for Executive Assistant Joan Melville MBE, and Project Manager Gillian Swanson, could not take place. Nor was it possible to welcome in person our two newly-appointed Commissioners (Professor Gillian Black and David Bartos, Advocate), or, later in the year, our new Project Manager Alison Fraser and our four new legal assistants.

Conferences and seminars continued in virtual form. In the first half of the year, Family Law seminars and road shows chaired by Kate Dowdalls QC resulted in constructive discussions and consultation responses concerning reform of the law of cohabitation. In July 2020, Jersey hosted the Four Jurisdictions Conference involving the Law Commissions of Scotland, Ireland, England and Wales, and Jersey, at which discussions focused on the rule of law and government responses to the pandemic. In September 2020 the Society of Legal Scholars held their annual conference, with the Commission staffing a virtual booth, led by Professor Black. In October 2020, Professor McCarthy assisted a Law Commission of England and Wales (LCEW) project consultation by hosting a Scottish online workshop on consumer contracts, and subsequently producing a guideline paper (accessible on the Commission website).

Contact with Scottish Government continued throughout the year. In autumn 2020, Commission legal staff assisted with the final stages of Brexit-related preparations, for which assistance thanks were extended to the Commission in December 2020 by letter from Ash Denham MSP, Minister for Community Safety.

Publications during 2020 were affected by the pandemic and by lockdown restrictions. Nevertheless the Commission published its annual report for 2019; a joint final report with the LCEW on electoral law; a discussion paper on cohabitation; and a joint consultation paper with the LCEW on automated vehicles.

Implementation of Commission recommendations was also affected by both the pandemic and Brexit. Reform of the law of defamation made progress in the Scottish Parliament, implementing the Commission Report of 2017. The Scottish Government programme of September 2020 contained a commitment to work towards implementation of the Commission Report of 2017 on Moveable Transactions. Consultation into transitional provisions for the law of prescription implementing Commission recommendations took place in October 2020. Parliamentary procedural changes (including widening the gateway for Commission Bills together with enhanced forward planning) are anticipated, following recommendations made in a report by the Delegated Powers and Law Reform Committee of the Scottish Parliament.

The year 2020 made unprecedented demands, both professional and personal, affecting everyone. My thanks are due to the Commissioners and to all the staff at the Commission for their unswerving commitment, hard work, and versatility in very difficult circumstances.



The Rt Hon Lady Paton
Chair

Publications 2020

PUBLICATION	DATE OF PUBLICATION
Annual Report 2019 (Scot Law Com No 255)	24 February 2020
Aspects of Family Law: Discussion Paper on Cohabitation (DP No 170)	26 February 2020
Electoral Law: a joint final report (Scot Law Com No 256)	17 March 2020
Automated Vehicles: Consultation Paper 3 – A regulatory framework for automated vehicles A joint consultation paper (DP No 171)	18 December 2020

Implementation of our reports 2020

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 2020.

Defamation

The Defamation and Malicious Publication (Scotland) Bill was introduced in the Scottish Parliament on 2 December 2019 by the Scottish Government. The Bill, now passed, will implement the recommendations contained in our Report on Defamation published in December 2017.

The overarching policy objectives of the Bill are to modernise and simplify the law of defamation in Scotland. The Bill seeks to place certain key elements of Scots common law on a statutory basis and replace and restate, in one place, elements of the existing statutory provisions (including from the Defamation Acts of 1952, 1996 and 2013).

Moveable Transactions

The Scottish Government's Programme for Government was announced in September 2020. In the Programme, the Scottish Government stated the intention to work towards implementation of the proposals in our Report on Moveable Transactions published in December 2017, with a view to introducing a Bill early in the next Parliament.

Prescription (Scotland) Act 2018

The Scottish Government carried out a consultation seeking views on the commencement, savings and transitional provisions for the commencement of the Prescription (Scotland) Act 2018. The Act implements recommendations in the Commission's Report on Prescription in 2017. The consultation closed in October 2020.

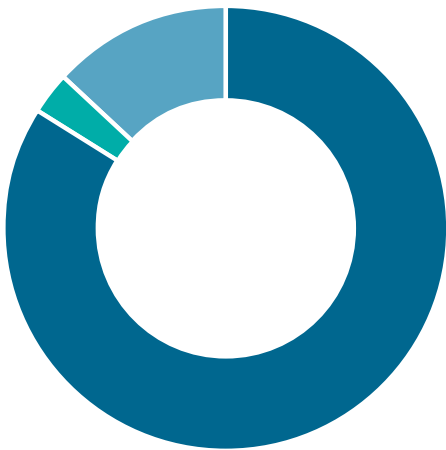
Judicial Factors

In August the Scottish Government published their response to their consultation on our Report on Judicial Factors in 2013. The Government stated their overall intention to take forward work to implement the proposals, dependent on the pressures on future legislative activity.

Improving legislative processes

The Commission welcomes the publication of the Report and recommendations by the Delegated Powers and Law Reform Committee of the Scottish Parliament in November 2020. The Report followed a review of the Presiding Officer's determination in relation to Commission Bills that may be referred to the Committee as the lead Committee. The Report is being considered by the Presiding Officer. The Report also addresses wider issues in relation to legislative planning for Commission Bills and work towards implementation of Commission Bills. The Commission looks forward to further discussions and to progress on these matters.

Implementation rate of Commission reports



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

Overall implementation figures

The overall position on implementation of Scottish Law Commission reports from 1965 to December 2020 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



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 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.

Projects included in our Tenth Programme of Law Reform

Item 1 – Heritable securities

Project Team

Professor Frankie McCarthy, Commissioner

Stephen Crilly, Project Manager

Charlotte MacKay, 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 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 paper on pre-default issues was published in June 2019, and we have received around 20 responses to that. Following work undertaken in light of those responses, we now intend to publish two further discussion papers. The second discussion paper, on default and post-default issues, will be published in mid-2021. 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-financial obligations where the remedy sought is performance. We aim to publish that third discussion paper in early 2023. We currently intend to publish a single Report and draft Bill, informed by the responses to the three discussion papers, however, we will keep this under review as the project progresses.

We have established good links with the relevant academic and legal communities, and have set up an advisory group chiefly composed of legal practitioners in this field. We held three meetings of this group prior to the publication of our first discussion paper and undertook a series of seminars around various law firms following publication. We held further meetings with members of the advisory group during 2020 to inform our work on the second discussion paper on post-default issues. During the coronavirus pandemic restrictions, we have maintained contact with the group via written briefings and phone or video calls.

We have also established further links with third-sector organisations to better inform our understanding of the impact of the current law from a debtor’s perspective.

A research paper by Dr John MacLeod, Senior Lecturer in Law at the University of Edinburgh, on enforcement of heritable securities has been published on our website. His paper is one of the first fruits of the arrangement between the Scottish Law Schools and the Commission, which enables law academics to collaborate with us. This paper is providing great assistance in the work we are taking forward on the second discussion paper.

Item 2 – Aspects of leases

Project Team

David Bartos, Commissioner

Charles Garland, Project Manager

Elizabeth Connaughton, 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 contains questions on tacit relocation; 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, in addition to making some reforms to it. We expect to publish our report in early 2022.

Item 3 – Homicide

Project Team

The Rt Hon Lady Paton, Chair

Graham McGlashan, Project Manager

Nicholas Burgess, 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 in February 2018 and is expected to take five years to complete. The topic has 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 2020 we continued work on the project, in particular developing and refining a discussion paper on the mental element in homicide. We hope to be in a position to publish that discussion paper in the first half of 2021.

Item 4 – Aspects of family law

Project Team

Kate Dowdalls QC, Commissioner

Lorraine Stirling, Project Manager

Molly Little, 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. The second phase is likely to be determined during 2021 and may involve 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.

We published our Discussion Paper on Cohabitation on 26 February 2020. Following publication, we had planned a series of events across Scotland to raise awareness of our paper, encourage responses and seek views from legal practitioners and non-lawyers on this area of law and policy. However, given the restrictions introduced following the coronavirus pandemic, we had to change our approach to engagement and these events took place by video conference instead. We also extended our consultation period from the end of May to the end of June to give our consultees more time to respond in light of the challenges everyone faced at that time.

Particularly given these challenging times, we were delighted to receive 45 responses to our Discussion Paper. We also received over 240 responses to a public survey we published in July seeking views from non-lawyers on what rights cohabitants should have to financial provision when their relationship breaks down. We are grateful to all those who responded to our consultation and survey.

We spent the latter half of 2020 analysing these responses with a view to preparing our recommendations for reform to the Scottish Ministers. We hope to be in a position to publish a Report with these recommendations and a draft Bill which implements the changes in the latter half of 2021.

Item 5 – Surrogacy

Project Team

Professor Gillian Black, Commissioner

Alison Fraser, Project Manager

Molly Little, 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 16 under the heading “Joint projects”.

Item 6 – Damages for personal injury

Project Team

The Rt Hon Lady Paton, Commissioner

Alison Fraser, Project Manager

Nicholas Burgess, 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 during 2021.

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 the operation of awards of provisional damages is in need of reform (section 12). 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 we will explore in 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. We are continuing to meet to discuss specific topics. We are grateful to them 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. The Commission is not currently working on any law reform project further to a reference from Scottish Ministers.

A Commission meeting by video link during the Covid-19 pandemic: a screenshot



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

Insurance contract law

Project Team

David Johnston QC, Commissioner

Gillian Swanson, Project Manager

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.

Surrogacy

Project Team

Professor Gillian Black, Commissioner

Alison Fraser, Project Manager

Molly Little, 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. Together with the Law Commission of England and Wales we are currently examining the detailed aspects of the proposal in light of these responses in order to further develop our proposals for law reform. We intend publishing a final report and a draft Bill in 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 are also considering 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.

Automated Vehicles

Project Team

David Bartos, Commissioner

Charles Garland, Project Manager

Elizabeth Connaughton, Legal Assistant

This joint project will provide a wide-ranging review of the legal framework surrounding the safe and effective deployment of automated vehicles on British roads. The review has been requested by the UK Government's Centre for Connected and Autonomous Vehicles (CCAV) and will run from 2018 to 2021. It aims to make the UK a premier development location for connected and automated vehicles; there is a clear need for the legal framework to be considered alongside the technological developments.

We have now published three joint Consultation Papers. The first examines 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 focuses on passenger services and public transport; it invites comments on a suggestion that there be a single national scheme of operator licensing for highly automated road passenger services (or HARPS), and asks how they would be integrated with public transport. Questions of accessibility, notably for those with a disability, and of road pricing are also raised.

We published the third consultation paper in December 2020. It contains 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.

We plan to publish a final report by the end of 2021.

Electoral law

Project Team

The Rt Hon Lady Paton, Commissioner

Gillian Swanson, Project Manager

The joint project on electoral law was brought to a conclusion in 2020 by the publication of a final Joint Report on 17 March.

Existing electoral law has become out-of-date, complex and fragmented with the result that there is consensus in the electoral law community that there is a pressing need for reform. The recommendations in the joint Report would simplify, modernise and rationalise the law.

The recommendations for simplification are that absent voting applications should substantially adhere to prescribed forms set out in secondary legislation; that presiding officers should permit voters with disabilities to vote with the assistance of a companion where a voter appears to be unable to vote without assistance; and that neither a voter nor a companion should be required to make a formal declaration.

On modernisation, it is recommended that the secrecy provisions in the current law should be expanded to ensure that postal voting is secret, and to prohibit individuals taking photographs at a polling station unless such action has been approved by the presiding officer; and that nomination papers should be capable of being delivered by hand and by other means such as electronically.

The recommendations on rationalisation are that current laws governing elections should be rationalised into a single, consistent legislative framework governing all elections (enacted in accordance with the UK legislative competencies); and the law on absent voting should reflect the fact that people are choosing to vote by post or proxy at any and all elections for a certain period, or on a particular day, rather than at a particular type of election.

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 2020
Heritable securities (Tenth Programme, item 2)	A Discussion Paper on pre-default issues was published in June 2019. We are working towards publication of a second discussion paper on post-default issues around the middle of 2021.
Aspects of leases (Tenth Programme, item 3)	Working on a report and draft Bill to be published in early 2022.
Homicide (Tenth Programme, item 4)	Working on a discussion paper on the mental element in homicide to be published in the first half of 2021.
Aspects of family law (Tenth Programme, item 5)	Analysing responses to the Discussion Paper on Cohabitation published in February 2020, with a view to working towards publication of a Report and draft Bill in the latter half of 2021.
Surrogacy (Tenth Programme, item 6)	See 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 2021.

References from Scottish Ministers

PROJECT	POSITION AT THE END OF 2020
There are currently no references to the Commission from Scottish Ministers.	

Joint projects with the Law Commission of England and Wales

PROJECT	POSITION AT THE END OF 2020
Insurance contract law	Work suspended due to other priorities at the Law Commission of England and Wales.
Automated vehicles	Joint Consultation Paper 3 on Automated Vehicles: a regulatory framework for automated vehicles published in December 2020. Working towards a final joint report to be published in 2021.
Surrogacy	Joint Consultation Paper published in June 2019. Consultation period closed on 11 October 2019. Comments are being analysed.
Electoral law	Project completed. Joint final report published on 17 March 2020.

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.

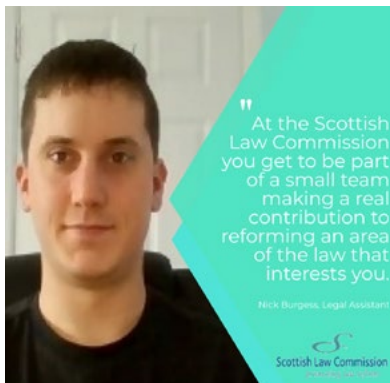
The Bill awaits implementation by the UK Government. The Commission is not in the meantime carrying out any further statute law repeal work.

Our legal assistants



Screenshot of a meeting of our legal assistants

Promoting the opportunity to work at the Commission



Nicholas Burgess



Elizabeth Connaughton



Molly Little



Charlie MacKay

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, the Minister for Community Safety, and the Minister for Parliamentary Business and Veterans, and with Scottish Government officials. We assist in the implementation of Commission recommendations in devolved areas.

In relation to reserved areas of Scots law, we liaise with UK Ministers and 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.

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 are very grateful to members of the profession who serve as members of our advisory groups on law reform projects, and to those who respond to our consultations. Contributions from the profession contribute significantly to the law reform process, by virtue of their practical experience of the law.

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 project.

Four Nations Law Reform Conference

In July 2020, the annual law reform conference of the Law Commissions of Scotland, England and Wales, Ireland and Jersey was hosted virtually by the Jersey Law Commission. Among the topics discussed were the rule of law and the response to Covid-19 in our respective jurisdictions.

The Society of Legal Scholars Annual Conference

The Society of Legal Scholars held a virtual conference from 1-4 September 2020, hosted by the University of Exeter. The Commission contributed to the conference via a virtual booth, offering attendees information about the Commission and our law reform projects, and interaction with Commissioners and Commission lawyers present at the booth.



Commission virtual booth

Publications planned for 2021

In 2021 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 produce a number of publications during 2021.

On the homicide project, we plan to publish a discussion paper on the mental element in homicide in the first half of 2021.

We aim to publish a discussion paper on damages for personal injury in 2021.

In the aspects of family law project, we aim to publish a report and draft Bill on cohabitation in the latter half of 2021.

On our heritable securities project we aim to publish a second discussion paper on default and post-default issues around the middle of 2021.

We aim to publish a report and draft Bill on aspects of leases early in 2022.

As regards joint law reform work with the Law Commission of England and Wales, publication of a final joint report on automated vehicles is expected by the end of 2021.

Commissioners and staff

(as at 31 December 2020)

Commissioners

The Rt Hon Lady Paton, *Chair**

David Bartos

Professor Gillian Black*

Kate Dowdalls QC

Professor Frankie McCarthy

Chief Executive

Malcolm McMillan

Project Managers (Solicitors)

Stephen Crilly

Alison Fraser*

Charles Garland

Graham McGlashan

Lorraine Stirling*

Legal Assistants

Nicholas Burgess

Elizabeth Connaughton

Molly Little

Charlotte MacKay

Librarian

Emma McLarty*

Office Manager

Helen Stevenson*

Executive Assistant

Wilma Campbell

Administrative Staff

Iain Ritchie

Gordon Speirs

* Part-time staff

The Commission's running costs 2020

The Scottish Law Commission is funded by the Scottish Government. Our running costs for 2020 were offset by payments received from Historic Environment Scotland for use of part of our office accommodation.

EXPENDITURE	YEAR TO 31 DECEMBER 2020
Salaries – Commissioners (including national insurance contributions, superannuation payments and pensions to former Commissioners)	£599,649.00
Salaries – Chief Executive and legal staff (including national insurance contributions, superannuation payments and consultants' fees and expenses)	£718,987.00
Salaries – Administrative staff (including national insurance contributions and superannuation payments)	£138,096.00
Accommodation (including maintenance, rates and utilities)	£83,723.00
Printing and publishing (including costs of books and library purchases, binding, maintenance of equipment, publishing costs of publications, photocopying and stationery)	£20,978.00
Telephone and postage	£3,971.00
Travel and subsistence	£761.00
Miscellaneous (including the provision and maintenance of the IT system, training of staff, office services and hospitality)	£28,846.00
Total	£1,595,011.00

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.





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