

Spring 2021

e-bulletin

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

Our current work

The work of the Scottish Law Commission has continued during the Covid-19 crisis, with Commissioners and staff working from home and communicating with each other and with stakeholders electronically and by video.

Our current law reform projects are set out on this page. These include joint law reform projects with the Law Commission of England and Wales. For further information on any particular project, click on the link.

Scottish Law Commission only projects

- [Heritable securities](#)
- [Aspects of the law of leases](#)
- [Homicide](#)
- [Aspects of family law](#)
- [Damages for personal injury](#)

Joint projects with the Law Commission of England and Wales:

- [Surrogacy](#)
- [Automated vehicles](#)

Statute law work

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



News

Farewell to our Chief Executive



We are sorry to bid farewell to our Chief Executive, Malcolm McMillan, who retires from the Scottish Law Commission and Civil Service at the end of June this year.

Malcolm has been our Chief Executive since 2008, ably supporting Scottish Law Commission Chairs Lord Drummond Young (2008), Lady Clark (2012), Lord Pentland (2014), and Lady Paton (2019 to date), Commissioners and Commission staff.

Prior to becoming Chief Executive, Malcolm had a long and distinguished career, working for the Government Legal Service for Scotland, in posts as varied as Deputy Legal Secretary to the Lord Advocate and Divisional Solicitor for the Rural Affairs Division.

We are sad to see Malcolm go and wish him the very best in his retirement.



Legal Assistant Recruitment

The Commission has recently completed its recruitment exercise for another four legal assistants for 2021/2022. We were delighted to receive a record number of applications this year (205). We are grateful to all those who applied and for such a high level of interest in our work among those leaving University or finishing legal traineeships.

Commission Christmas Online Quiz

The Commissioners and staff have also found ways of keeping in touch with each other socially this year notwithstanding the Covid-19 restrictions.

Of particular success was our online Christmas Quiz, where we discovered each other's general knowledge abilities and shared some Christmas cheer.





Revised determination by the Presiding Officer for referring Commission Bills to the DPLR Committee

The Commission welcomes the revised determination by the Scottish Parliament's Presiding Officer of the criteria for referring Commission Bills to the Delegated Powers and Law Reform (DPLR) Committee of the Scottish Parliament: [Parliament's Business Bulletin](#). The revised determination will facilitate an improvement in the rate of implementation of Commission Bills in Session 6 of the Parliament.

The DPLR Committee published a [handover report](#) recommending that its successor committee take the time to learn more about the Commission's work, and develop links with the Commission.

The Commission appreciates the work of the Committee on Commission Bills, and the process for the Bills, and looks forward to engaging with the successor committee.

Minister thanks the Commission for our contribution to Brexit

21 Dec 2020

The Minister for Community Safety, Ash Denham MSP, wrote to Lady Paton, expressing thanks and appreciation for the assistance given by the Commission to the Government for Brexit preparations. The Commission's lawyers provided valuable assistance to the Government in 2019, and again this year.

A copy of the Minister's letter is [here](#).

Publications

Automated Vehicles



A joint [consultation paper](#) by the Scottish Law Commission and the Law Commission of England and Wales on new laws for automated vehicles was published on 18 December 2020. This is the third (and final) consultation paper in the project. It sought views on various matters including the definition of self-driving, safety assurance before and during use, responsibilities of users, civil and criminal liability and access to vehicle-use data. All of the consultation papers are available on the [project page](#) of our website.

A number of discussions were held with interested parties during the most recent consultation period and we are grateful to all those who took part and to those who have submitted a written response. The consultation closed on 18 March 2021. A joint team is analysing all of the responses and the Commissions aim to publish a report with full recommendations by the end of 2021.

Annual Report

The Commission published its [Annual Report](#) for 2020, in February 2021. The Report outlines the wide-ranging law reform work carried out by the Commission during 2020, and describes the progress made on its projects. It also records publications planned for issue in 2021 including Discussion Papers on homicide, damages for personal injury, and heritable securities, and Reports for issue in 2021/2022 including cohabitation, automated vehicles, and termination of commercial leases.

Implementation

The Defamation and Malicious Publication (Scotland) Act 2021

The Defamation and Malicious Publication (Scotland) Bill received Royal Assent on 21st April. The Act implements the recommendations in the Commission's [Report on Defamation](#) (Scot Law Com No 248, 2017).

Lady Paton, Chair of the Commission, said:

“We warmly welcome the enactment of this important legislation. The Act implements key recommendations in the Commission’s 2017 Report on Defamation, with a view to modernising the law of defamation and making it fit for purpose in today’s society.”

The Act can be found here:

<https://www.legislation.gov.uk/asp/2021/10/contents/enacted>

Further information on our completed project on Defamation can be found [here](#).



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.

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