



Delegated Powers and Law Reform Committee

Shona Robison MSP
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Via email

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Dear Shona,

The Delegated Powers and Law Reform Committee took evidence from Lady Paton, Chair of the Scottish Law Commission, in September. The session [touched on the Committee's expected work on tenement property and common repairs](#). Since then, the Committee has written to the Commission to ask for more details on the anticipated processes and timescales involved in this work.

The Committee appreciates that the subject matter covered by the Commission's anticipated work on tenement repairs falls under the Local Government, Housing and Planning Committee's remit. Given the significance of this issue to many people across Scotland, it has written to its Convener, Ariane Burgess MSP, to highlight the most recent correspondence from the Commission. The letter from Lady Paton is included in the annex.

Lady Paton mentioned in her letter that the Commission has yet to receive a formal reference from the Scottish Government. I am therefore writing to ask when you would expect this to happen. Also, given the significance of the work, which is undoubtedly a regular issue raised with Members, it would be very helpful if you could outline the Scottish Government's plans for tenement property and common repairs.

I would be grateful for a response by **Friday 28 January 2022**.

I am copying this letter to the Scottish Law Commission, the Local Government, Housing and Planning Committee and Minister for Parliamentary Business.

Yours sincerely

Stuart McMillan MSP
Convener of the Delegated Powers and Law Reform Committee

**Letter from Lady Paton, Chair of the Scottish Law Commission, to the
Convener of the Delegated Powers and Law Reform Committee**

Thank you for your letter of 15 November.

You ask for details about the envisaged timetable in relation to the tenements project. I should say at the outset that we are still waiting for the formal reference from the Scottish Government, but we believe it to be not far away.

As I outlined in my letter of 15 October our projected timeframe for submitting our Report to Ministers by Spring 2026 is based both on the work we anticipate carrying out on the tenements reference itself and our work on the heritable securities project in our current Programme of Law Reform. The Commission carries out law reform projects in small teams comprising a lead commissioner, a solicitor and a research assistant. Both the heritable securities project and the tenements project will be carried out by the Commission's property team.

In the heritable securities project we plan to publish three discussion (consultation) papers; the first came out in June 2019, and the second will be published in a matter of a few weeks' time. Work will then begin on the third, after which the team will prepare a Report and draft Bill, on all matters covered in the three papers, for publication in 2025. The tenements project will run alongside that work.

We anticipate that a rough timetable for the tenements project will be as follows (and the description of the work at each stage is by no means exhaustive, but is simply to give a flavour of the main law reform work which will be carried out):

- **January 2022 – March 2022** Begin preliminary work on collating the legal issues which arise from the Working Group Report. Set up an advisory group and consider other methods and avenues for stakeholder engagement. (We have already begun some general research.)
- **April 2022 – September 2023** Detailed research on legal issues including consideration of human rights issues and a review of how owners' associations or similar are dealt with in countries with legal systems comparable to Scotland. Draft a consultation paper to set out the findings of our research and seek views on options for legislative reform. Our work here will be carried out in consultation with our advisory group and other stakeholders and will be subject to scrutiny and approval by all Commissioners.

- **October 2023 – January 2024** Approximately 3-month consultation period, during which we will carry out public engagement activity to maximise stakeholder response rate to the consultation.
- **February 2024 – January 2025** Analysis of consultation responses and further research as necessary culminating in the preparation of a policy paper for scrutiny and approval by all Commissioners.
- **February 2025 – April 2026** Prepare a final recommendations Report including, if appropriate, working with Parliamentary Counsel's Office to produce a draft a Bill which, if taken forward, would give legal effect to the recommendations. This will include a period of approximately six weeks for stakeholder consultation on the terms of any draft Bill. The terms of any Report and draft Bill would also be subject to scrutiny and approval by all Commissioners.
- **Spring 2026** Submission of our Report to Scottish Ministers.

I should reiterate that, as is generally the case with our work, the timings are subject to change as the project develops. One important reason for this is that we cannot accurately predict how long it will take us to take account of what is said in consultation. That is equally the case for this project and the heritable securities project, in which we will also consult on two discussion papers and a draft Bill during the time frame set out above. Broadly speaking, though, I would expect the timings to be as I have outlined.

Yours sincerely,

Ann Paton