**Tenements (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 19</th>
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<tr>
<td>Introduced on:</td>
<td>30 January 2004</td>
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<td>Introduced by:</td>
<td>Margaret Curran (Executive Bill)</td>
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<td>Passed:</td>
<td>16 September 2004</td>
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<td>Royal Assent:</td>
<td>22 October 2004</td>
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2004 asp 11

**Passage of the Bill**

The Tenements (Scotland) Bill [SP Bill 19] was introduced in the Parliament on 30 January 2004. The Justice 2 Committee, as the lead committee, commenced taking Stage 1 oral evidence on the general principles of the Bill at its meeting on 24 February 2004. The Stage 1 (general principles) debate took place on 3 June 2004 and the Bill was passed following the Stage 3 parliamentary debate on 16 September 2004.

**Purpose and objectives of the Bill**

The Bill is the final item in the Scottish Executive’s legislative programme of property law reform based on recommendations of the Scottish Law Commission. Earlier bills led to the Abolition of Feudal Tenure etc (Scotland) Act 2000 and the Title Conditions (Scotland) Act 2003. All three pieces of legislation are expected to be fully commenced on 28 November 2004.

The Bill has two main aims:

- to clarify and re-state the common law rules which demarcate ownership of the various parts of the tenement, removing a number of anomalies and uncertainties in the existing law

- to provide a statutory system of management for tenements (referred to in the Bill as the ‘Tenement Management Scheme’) ensuring that the owners of every tenement will have a mechanism to reach decisions on important matters such as repairs

The Bill’s overall policy objective is to facilitate the carrying out of outstanding necessary repairs to tenements.
Provisions of the Bill

Sections 1–3 of the Bill clarify the rules which demarcate ownership of the different parts of a tenement.

Section 4 of the Bill determines the circumstances when the Tenement Management Scheme applies and the Schedule to the Bill lays out the rules of the Scheme.

The Bill also covers a range of other matters relating to tenements including duties of ‘support’ and ‘shelter’ owed by flat owners to one another (ss 7–10), the obligation on an owner to insure his or her flat (s 15), the continuing liability of outgoing owners for repairs to a tenement building (ss 11–13), access to flats by other flat owners for maintenance purposes (s 14), and demolition and abandonment of tenement buildings (ss 16 – 20).

Parliamentary consideration

The Justice 2 Committee noted in its Stage 1 Report that evidence given to it was consistent with the Executive's evidence that there is widespread support for the aims of the Bill. The issues debated in their evidence were points of detail.

The most contentious part of the Bill was section 11 which, in the Bill as introduced, provided that where there are unpaid debts when a tenement is sold, the buyer should become severally liable with the previous owner. In its Stage 1 Report the Committee concluded this provision was “very unfair to the purchaser”, (Justice 2 Committee 5th Report, 2004 'Stage 1 Report on Tenements (Scotland) Bill', para 43) as he or she might be exposed to large and unexpected bills for repair work if a seller did not disclose the existence of such a liability and then disappeared without trace.

In response to the Committee’s concerns, the Executive moved amendments at Stage 3 to allow any owner in a tenement to register a notice in the property registers to make it public that works have been or may be carried out to the tenement. Under the new provisions, if there is no notice, the incoming purchaser will not be liable for the costs of any work carried out before he or she became an owner.