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NEWS

Who's in the running?

A look at who might be in the frame to replace Lord President Hamilton when he steps down from the office in June, and what the process of finding the next Lord President involves.

[*The Scotsman, 20 February 2012*](#)

Repossession may fail

Discussion of the effect on outstanding repossession actions following Sheriff Deutsch's ruling against Northern Rock which held that the borrower should have been given a further warning.

[*The Herald, 1 March 2012*](#)

"They are throwing up to 70 people an hour out of their homes"

Report on the Open Justice project, an initiative aiming to use social media applications to open up Scottish courtrooms and make justice more accessible.

[*The Guardian, 1 March 2012*](#)

Serial egg thief banned from Scotland during breeding season

Report on the first Anti-Social Behaviour Order to be granted in connection with wildlife crimes. The offender has been banned from entering Scotland during the breeding season.

[*STV online, 24 February 2012*](#)

Anti-bigotry law threat to Scot pubs

The licensed trade is seeking clarification of publicans' responsibilities under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act, soon to receive Royal Assent.

[*The Herald, 15 February 2012*](#)

CASES

Family and child law

Hales v Hales, 2 February 2012

Considers whether it is relevant to take into account the circumstances of a party's new household when making orders for financial provision on divorce. [[Case report](#)]



EM v AI, 20 February 2012

Cohabitation claim, including an award for the economic burden of caring for the parties' child. Pursuer obtained a capital award on the basis that her contributions had enabled the defender to repay a refinancing loan secured on the home. Evidence as to the future cost of child-rearing was allowed to be led but not relied on by the Sheriff in making an award under this head. [[Case report](#)]

DJP v YX or P, 22 February 2012

Appeal to the Inner House against an award of financial provision on divorce by the Sheriff Principal considering at length the question of economic disadvantage and fair sharing of the matrimonial property. [[Case report](#)]

MS v SS, 28 February 2012

Appeal against orders that the parties' child should be allowed to relocate to Houston with his mother in order that she could continue in employment following a promotion. Discusses the considerations of an appellate court in the context of specific issue order proceedings. [[Case report](#)]

Personal injury

Mullen v Churchill Insurance, 14 February 2012

Case considering in detail the appropriate solatium award for injuries sustained in a rear-end road traffic collision. [[Case report](#)]

Clark v Shirra, 14 February 2012

Note explaining why the pursuer's counsel was not permitted to refer to the defender's Statement of Valuation of Claim when addressing the jury on quantum. [[Case report](#)]

Commercial and debt recovery

Macdonald v Pollock, 14 February 2012

The pursuer had purchased a boat from the defenders which turned out to be of unsatisfactory quality. He claimed he was entitled to reject the boat, repudiate the contract and recover the price paid. Reversing the Sheriff Principal, the Inner House held that he was so entitled [[Case report](#)]

Miscellaneous

Doogan and Wood, Petitioners, 29 February 2012

Two midwives who are practising Catholics argued that they had the right to conscientiously object to supervise staff conducting abortions. This was rejected on the basis that they could have declined the supervisory posts requiring these duties and did not have to be directly involved in administering the treatment. [[Case report](#)]

Tetlow v AMS and Others, 16 February 2012

The pursuers sought reduction of a decree in absence where they had already unsuccessfully sought to be reponed. Held that refusal of a reponing note did not in itself render reduction incompetent, and a proof before answer allowed. [[Case report](#)]

Gordon v Clark, 1 March 2012

A pursuer settled for a sum which was the same as had been offered before the litigation commenced. The Auditor taxed off the expenses of process after the pre-litigation offer on the basis that the pursuer had raised proceedings prematurely and incurred expense through his own fault. Held that he exceeded his discretion in so doing and the expenses were restored. [[Case report](#)]

LEGISLATION

Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012

Creates a number of new offences in connection with behaviour at football matches and communications intended to incite or threaten violence or stir up religious hatred.

[Legislation.gov.uk](http://legislation.gov.uk), 19 January 2012

The Personal Injuries (NHS Charges) (Amounts) (Scotland) Amendment Regulations 2012

Amends the charges payable by a person who pays compensation to an injured person who has received National Health Service treatment or ambulance services.

[Legislation.gov.uk](http://legislation.gov.uk), 2 March 2012

DRAFT LEGISLATION

The Scottish Secure Tenancies (Proceedings for Possession) (Pre-Action Requirements) Order 2012 (Draft)

These set out further pre-action requirements for social landlords and impose detailed obligations to make "reasonable efforts" to agree arrears management plans and support tenants to stick to them.

[Legislation.gov.uk](http://legislation.gov.uk), 14 March 2012

The Evidence in Civil Partnership and Divorce Actions (Scotland) Order 2012 (Draft)

This Regulation will remove the requirement for a corroborating affidavit to be presented in a simplified application for dissolution. In the meantime, the Sheriff Principal of Lothian and Borders has issued a practice note clarifying the current practice.

[Legislation.gov.uk](http://legislation.gov.uk) 13 February 2012

The practice note is available [here](#).

CONSULTATIONS/LAW REFORM

Bankruptcy law reform

The next stage of the Scottish Government consultation in this area focuses on the provision of debt advice, the powers of the Accountant in Bankruptcy, and non-court routes to insolvency in non-contentious situations. Comments by 14 May.

[The Scottish Government, February 2012](#)

Protective Expenses Orders in Judicial Review of Environmental Decisions

Querying whether the Rules of the Court of Session should provide for protective expenses orders to be made when challenging planning decisions where an environmental impact assessment is required.

[The Scottish Government, 10 January 2012](#)

The Secure Accommodation (Scotland) Regulations 2012

New Regulations are proposed to replace and update the 1996 Regulations made under the previous Act. Responses by 23 March.

[The Scottish Government, February 2012](#)

Your Scotland – Your Referendum

Consultation on the independence referendum – responses by 11 May.

[The Scottish Government, 25 January 2012](#)

OTHER PUBLICATIONS

Annual report

The Scottish Law Commission has published its annual report, setting out its achievements during 2011 and its programme for 2012.

[*Scottish Law Commission, February 2012*](#)

Children's legal assistance handbook

The Scottish Legal Aid Board has published an updated and restructured version of the Handbook.

[*Scottish Legal Aid Board, February 2012*](#)

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