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Adrian Stalker, EVICTIONS IN SCOTLAND

Edinburgh: Edinburgh University Press (www.euppublishing.com), 2nd edn, 2021. xlix + 562 pp. ISBN: 9781474482165. £85.

The second edition of this book by one of Scotland's leading authorities on the recovery of possession of heritable property had an extended gestation period. As explained in its Preface, a first attempt at a new edition – being an update of a predecessor from 2007 – was ready to roll in early 2015. When it became clear that the wholesale reforms to the private rented sector that came to be embodied in the Private Housing (Tenancies) (Scotland) Act 2016 were in the pipeline – not to mention there was to be an almost wholesale transfer of jurisdiction in that sector from the Sheriff Court to the First-tier Tribunal for Scotland (Housing and Property Chamber) – the brave, pragmatic and surely correct decision was made to shelve that manuscript.

This edition now fully caters for that and other developments. It does so in a way that does not seem contrived or shoehorned into a pre-existing text. If one was to be hypercritical, perhaps the content on private residential tenancies – PRTs being the predominant letting vehicle in Scotland since they were introduced in December 2017 – could have been positioned more prominently (namely before the assured tenancy content, which is of dwindling importance); although if that would have been too tricky a refurbishment of the earlier shadow edition that structural decision must be forgiven. The happenstance of the delay from 2015 has also allowed the book to take in other important developments, such as newer case law (for example, *St Andrews Forest Lodges Limited v Grieve* [2017] SC DUN 25) and the work of the Scottish Law Commission on leases. No corners were cut in terms of bringing the literature it refers to up-to-date either: for example, it references the new edition of *Residential Tenancies: Private and Social Renting in Scotland* (2019) by Peter Robson and the reviewer.

Stalker's new edition is crucial because it covers ground that no other contemporary text covers. The author's background as a practising advocate, former principal solicitor at a housing charity and as a legal member at the First-tier Tribunal – a role that is not advertised in the book's biography of the author – makes him ideally qualified to cover his topic with proficiency and in a manner that has practical utility. An earlier review of this text for a practitioner-focussed publication (by the advocate Jon Kiddie, in the November 2020 issue of the *Journal of the Law Society of Scotland*, available at <https://www.lawscot.org.uk/members/journal/issues/vol-65-issue-11/book-reviews-november-2020/>) highlights that this edition is indeed useful to those at the coalface. I could find little to make me doubt Kiddie's analysis, although anyone unlucky enough to encounter the esoteric situations of a protected tenancy under the Rent (Scotland) Act 1984 or a specific mobile home-related query will need to look beyond the pages of this text.

Kiddie noted that he waited until he had a chance to deploy Stalker's work in practice before penning his (positive) review. The equivalent academic stress test for a book under review is to apply it to a research exercise. My own research case study related to wrongful-termination orders under the 2016 Act, whereby a landlord who has manufactured grounds to recover possession from a tenant with a PRT can be penalised for that chicanery. Stalker's book quickly took me to the important Supreme Court case of *S Franses Ltd v Cavendish Hotel (London) Ltd* ([2018] UKSC 62). Although this related to a property in England and a slightly different matter was at issue, it was squarely in point on the question of a landlord's actual rather than stated intention. Separately, I have been able to highlight this new edition as a reference point in a forthcoming chapter I have contributed to an edited property law collection. All of this enables me to attest to its academic as well as practical utility.

A potential quibble does arise in the context of the book's coverage of the Covid-19 emergency measures, at least as printed, with details of the Coronavirus (Scotland) Act 2020 rules appearing in the book's appendix. Whilst Stalker must be applauded for putting together such a resource so quickly, alas the text published in the appendix was quickly superseded by

the evolving emergency rules brought in and adapted for public health reasons. In fact, even at the time of publication this appendix was already out of date. For example, the reforms of the Coronavirus (Scotland) Act 2020 (Eviction from Dwelling-houses) (Notice Periods) Modification Regulations 2020 (SSI 2020/270) that made it quicker for private landlords faced with antisocial or certain criminal behaviour from a tenant or an associate of a tenant to recover possession were not caught. In fairness, the Preface of the book does signpost readers to an online resource hosted by Edinburgh University Press, which seeks to cater for this by updating the appendix to 31 December 2020. Any reader with access to the internet (as surely most people in this era will have) does at least have that to hand (although even that update was quickly superseded, with the Health Protection (Coronavirus) (Protection from Eviction) (Scotland) Regulations 2020 (SSI 2020/425) – which suspended the enforcement of evictions over the winter – being replaced by the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 12) Regulations 2021 (SSI 2021/17)). Either way, it is probably for the best that these rules and related analysis were nevertheless included in the book, as anyone studying the issue can use this grounding as a springboard for researching the (ever-evolving) current position. The reviewer is also acutely aware that any point about the emergency Covid-19 legislation is necessarily of its time and may not be relevant to all future readers of this book; at the time of writing this review, the emergency period when these measures are in effect is due to expire (after several extensions) in 2022.

Other quibbles are few and far between: it might have been prudent to avoid using the phrase “standard Scottish secure tenancy” so near the acronym “SSST” on page 13 (even though the technical term short Scottish secure tenancy is also listed there); and footnote 92 on page 22 presumably meant “indicated” rather than “indicted”. Nevertheless, such issues can and should be overlooked when the valuable content on “Unlawful Eviction and Harassment” (in chapter 2), “Public law, Human Rights and Equality Act Defences” (chapter 9), and what might be bunched together as procedural matters (chapters 12-15) are considered. Kiddie’s review is effusive in its praise of Stalker’s new edition, and despite the minor issues identified this reviewer shares Kiddie’s enthusiasm. That earlier review also explains how the work has expanded from the earlier edition (almost doubling in size, and now featuring 15 chapters rather than nine), which goes to show the effort that went into this edition. It was worth the wait.

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