

Scotland Predictions 2026

True cross jurisdictional expertise will be needed as businesses expand

With the increasing incursion of English and Welsh law firms into Scotland and vice versa in a bid to provide clients with a UK-wide service, there is a risk of firms not appreciating the often subtle differences between the substantive law, procedural rules, codes of professional conduct and even cultural differences to handling litigation in each jurisdiction. Similar issues can arise in dealing with cross border disputes. If not dual qualified and suitably experienced, solicitors can be at risk of assuming (wrongly) that principles are the same, and operate in the same way, in both jurisdictions, leaving themselves exposed to potential claims. This is particularly the case having regard to the differences between the two jurisdictions in relation to limitation (and, in Scotland, prescription).

Significant findings on prescription will impact the construction industry going forward

In August 2025, the Inner House of the Court of Session published a decision in which the judges made two significant findings impacting the law on prescription in Scotland. First, the court significantly narrowed the scope for claimants in Scotland to rely on the relief mechanism in Section 6(4) of the Prescription and Limitation (Scotland) Act 1973 when faced with time bar defences. Secondly, it reshaped the legal landscape in Scotland in relation to the prescription of collateral warranties, finding that a collateral warranty could give rise to a fresh five year prescriptive period. These are two considerable changes to the legal landscape which will have far reaching consequences in the context of construction claims.

Activity on cladding in Scotland is stepping up but further work is required

Scotland's response to Grenfell has been a bit stop start. However, activity has stepped up since the end of last year, especially in the wake of Grenfell 2 and the UK government's response to that being published. These two developments have put the spotlight - and renewed pressure - on the Scottish government for it to speed up its response to Grenfell which is seen in many quarters as just being too slow. Like the UK government, the Scottish government published its own response to Grenfell 2 and it too accepts all of the recommendations made by the inquiry. Scotland is however largely actioning its own response, in circumstances where only limited provisions of the Building Safety Act 2022 apply, with its own flagship legislation, the Housing (Cladding Remediation) (Scotland) Act 2024, which came into force at the start of this year. The Act is a shop front and a significant volume of secondary legislation is needed to add flesh to the bones, consultations and initiatives in respect of which are being developed.

Regulatory reform of legal services will increase confidence in the industry

The Legal Services (Scotland) Act 2025 was finally passed in June 2025. It updates the regulation of legal services in Scotland and modernises the regulatory framework. It grants new powers to the Law Society of Scotland to regulate legal businesses and allows for quicker investigation of complaints against solicitors. There are increased powers to suspend solicitors from practice and it introduces a new offence of pretending to be a lawyer, intended to give the public confidence that those they seek advice from are properly qualified. The Act introduces a register of licensed providers that must be kept providing detailed information in relation to each licensed legal service provider.

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