

## Robert D. Sutherland



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Robert Sutherland specialises in all aspects of property and public law. He is a leading practitioner in agricultural and crofting matters, conveyancing and housing law. He is regularly instructed in connection with servitudes and access disputes, waste management and other environmental law issues, planning, and fishing law. Robert has been frequently instructed by petitioners and respondents in judicial review cases in the Court of Session. He is a member of the Chartered Institute of Arbitrators.

Robert is ranked Band 1 in Chambers UK and Tier 1 in Legal 500.

In Chambers UK (2018) Robert is described as *"unquestionably one of the leading people in the rural agricultural land and rural business speciality at the Bar"*. *"He's good with clients, very effective in court, can communicate clearly with clients and is able to have those difficult conversations with clients that you need to have"*.

### Biography

Between studying for degrees in history and law Robert worked for Registers of Scotland. He first became interested in agricultural law at Edinburgh University, winning the class medal along the way. Robert did his traineeship for an Edinburgh law firm which had several large clients with significant litigation caseloads and property portfolios. A spell in the court department persuaded him to change his career plans once more. When he came to the Bar much of his initial work consisted of judicial review in the fields of housing, various types of local government licencing, social security, immigration and asylum. By its nature, the work was frequently urgent, and involved complex and technical legislation. This experience was invaluable as Robert has an excellent reputation for dealing with difficult issues within very tight deadlines. His housing law experience led to him becoming the first Editor of Green's Housing Law Reports, and later being asked to prepare the Re-issue title on Housing for the Stair Memorial Encyclopaedia. His early judicial review work encouraged an interest in access to justice issues, and invitations to become a Director of the Scottish Legal Action Group and to join the Law Society of Scotland's Access to Justice Committee.

Over time the property law side of Robert's practice at the Bar continued to grow, so that it has become the biggest part of his work and the area for which he is now best known. Much of this is connected with rural property, but he has been involved in many other types of property work. He was involved in many agricultural arbitrations before changes in 2003 transferred that work to the Scottish Land Court. He is also experienced in conveyancing, commercial property arbitrations, and a variety of commercial and residential landlord and tenant disputes. Other areas of practice are contract law, environmental law, licencing, local government, planning, professional negligence, rights of way, servitudes, and telecommunications. The nature of his work means that in addition to his Court of Session work, he regularly travels to sheriff courts the length and breadth of Scotland, from Kirkwall

to Kirkcudbright, and from Stornoway to Stonehaven, as well as appearing in the Sheriff Appeal Court, the Scottish Land Court, the Scottish Lands Tribunal, and the Supreme Court. He also continues a judicial review practice, acting for petitioners and respondents.

## **Appointments**

Editor, Green's Housing Law Reports (1996 - 1999)  
Director (including periods as Secretary and Convenor) of the Scottish Legal Action Group (1999 - 2015)  
Director of Scottish Legal News (2008 - 2016)  
Treasurer, Terra Firma Chambers, 2008 to 2017  
UKELA Scottish Branch Committee (current)  
Curator of the Advocates Library (since 2017)

## **Memberships**

Agricultural Law Association  
Chartered Institute of Arbitrators  
Chartered Institute of Housing  
Crofting Law Group  
Scottish Planning, Local Government and Environmental Bar Group  
United Kingdom Environmental Law Association.

## **Publications**

Claiming Criminal Injuries Compensation, LSA, (1997), Chapter 11 (*Judicial Review of the Criminal injuries Compensation Scheme*)  
Green's Litigation Styles  
Scottish Human Rights Service, Division 10 (*Social Security*)  
Scottish Planning Factbook, Chapter 8 (*Conservation and Other Controls*)  
The Laws of Scotland, Stair Memorial Encyclopaedia, *Housing* (2014 reissue)  
Garner's Environmental Law (contributor to various Chapters, including: *Contaminated Land; Contractual Documents; Regulation, Enforcement and Disputes; Shipping of Waste; Water and Flooding*)

## **Recent Articles and Events**

Better Planning  
A Cut Too Far? Financial Constraints and the Public Sector Equality Duty  
Playing the Long Game  
Flood Management Case Law Review  
Roxburgh Mains Rent Review  
Break Clauses and Irritancies - Some Common Pitfalls in Commercial Leases  
Environmental Taxation In The UK and Scotland - Changes, Challenges and Landfill Tax  
I'm a Cecropia, Get Me Out of Here  
A Survey of Rural Law Developments in Scotland in June 2011  
A Survey of Rural Law Developments in Scotland in April and May 2011  
A Survey of Rural Law Developments in Scotland in March 2011  
A Survey of Rural Law Developments in Scotland in February 2011  
A Survey of Rural Law Developments in Scotland  
A Survey of Rural Law Developments in Scotland in December 2010  
A Survey of Rural Law Developments in Scotland in November 2010  
A Survey of Rural Law Developments in October 2010  
A Survey of Rural Law Developments in Scotland in September 2010  
A Survey of Rural Law Developments in Scotland in August 2010

A Survey of Rural Law Developments in Scotland in July 2010  
A Survey of Rural Law Developments in Scotland in June 2010  
New Rural Payments Appeals System  
Expert Evidence - Role Duties and Responsibilities of the Expert Witness in Court Proceedings  
Case Comment - Mitchell v Glasgow City Council  
Land Reform in Scotland in the 21st Century  
Proposals for Crofting Reform Published  
Agricultural Holdings Case Law Update  
Part IIA Cases on the Contaminated Land Regime, and Future Legislative Changes  
Who pays for the cost of cleaning up contaminated land?

## **Recent Cases**

*Gordon's Inter Vivos Trustees v Campbell Riddell Breeze Paterson LLP*, 2017 SLT 1287  
*SSE Telecommunications v Miller*, Forfar Sheriff Court, 15 June 2017  
*Oag v Oag's Executors*, Scottish Land Court, 20 June 2017, 2017 GWD 25-423  
*Macleay v Crofting Commission*, Scottish Land Court, 21 September 2016, 2016 GWD 34-608  
*Fyffe v Esslemont*, Scottish Land Court, 15 September 2016, 2016 GWD 33-586  
*City of Edinburgh Council v Smith*, 2016 SLT (Sh Ct) 343; 2016 Hous LR 30  
*Cameron v Mackay*, Scottish Land Court, 2016 GW 31-551  
*Sorbie v Kennedy*, 2015 SLT (Land Ct) 17; 2014 SC 193  
*Capital Investment Corp of Montreal Ltd v Elliot*, 2014 SLCR 19  
*Macneil v Bradonwood Ltd*, 2013 SLT (Lands Tr) 41  
*Uprichard v Scottish Ministers*, 2013 (UKSC) 219  
*Sorbie v Kennedy* (SLC/225/05), 23 October 2014  
*Capital Investment Corporation of Montreal v Elliott* (SLC/94/09), 11 June 2014  
*Uprichard v Scottish Ministers & Fife Council*, 2013 (UKSC) 21