



Scottish Law Commission

promoting law reform

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ISSUED ON BEHALF OF THE SCOTTISH LAW COMMISSION

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BEFORE 0001 HOURS WEDNESDAY 21 JANUARY 2009

SCOTTISH LAW COMMISSION CONSIDERS EXCEPTIONS TO DOUBLE JEOPARDY

The Scottish Law Commission today publishes a Discussion Paper on Double Jeopardy.

The rule against double jeopardy prevents a person from being tried twice for the same crime. As a consequence, it is not possible to retry a person who has been acquitted of a crime, even if new evidence emerges in relation to the case or if it appears that the original trial was "tainted" in some way, such as by intimidation or bribery of jurors or witnesses.

The Commission invites comment on whether it is desirable for any exceptions to the rule against double jeopardy to be introduced and, if so, how these should operate.

Patrick Layden, QC, the lead Commissioner on the project, said:

"The rule that prevents a person from being tried twice for the same offence has been recognised in Scotland and across the world as a fundamental protection for the citizen against the state; but we should look at it carefully to see whether modern conditions justify exceptions to it."

As well as considering possible exceptions to the rule against double jeopardy, the Discussion Paper seeks comment upon a proposal to restate the rule against double jeopardy in statute.

Comments on the Discussion Paper (which is available online at www.scotlawcom.gov.uk) are requested by **17 April 2009**.

NOTES TO EDITORS

1. The Scottish Law Commission was set up in 1965 to promote the reform of the law of Scotland. The Chairman is the Hon Lord Drummond Young, a Court of Session judge. The other Commissioners are Professor George L Gretton, Patrick Layden QC TD,

Professor Joseph M Thomson and Colin J Tyre QC. The Chief Executive is Malcolm McMillan.

2. Further information can be obtained by contacting Alastair Smith, Scottish Law Commission, 140 Causewayside, Edinburgh EH9 1PR (Tel: 0131 668 2131, Fax: 0131 662 4900, email: info@scotlawcom.gov.uk).

3. The paper may also be viewed on our website at www.scotlawcom.gov.uk or purchased from TSO Scotland Bookshop.