

# Scottish Law Commission

(SCOT LAW COM No 109)

## TWENTY-SECOND ANNUAL REPORT 1986–87

Laid before Parliament by the Lord Advocate  
under Section 3(3) of the Law Commissions Act 1965

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The Scottish Law Commission was set up by section 2 of the Law Commissions Act 1965 for the purpose of promoting the reform of the law of Scotland. The Commissioners are:

The Honourable Lord Maxwell, *Chairman*,  
Dr E M Clive,  
Professor P N Love, CBE,  
Mr J Murray, QC,  
Sheriff C G B Nicholson, QC

The Secretary of the Commission is Mr R Eadie<sup>1</sup>. Its offices are at 140 Causeway-side, Edinburgh EH9 1PR.

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1. Mr Eadie ceased to be the Secretary of the Commission on 13 August 1987. His successor is Mr K F Barclay.

# SCOTTISH LAW COMMISSION

## Report for the year ended 15th June, 1987

To: The Right Honourable the Lord Cameron of Lochbroom, QC,  
*Her Majesty's Advocate*

In accordance with section 3(3) as read with section 6(2) of the Law Commissions Act 1965, as amended,<sup>1</sup> we have the honour to submit this the Twenty-Second Annual Report of the Scottish Law Commission.

(Signed) PETER MAXWELL, *Chairman*  
E M CLIVE  
PHILIP N LOVE  
JOHN MURRAY  
GORDON NICHOLSON

LINDA A LILLEKER, *Acting Secretary*  
4 September 1987

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1. Transfer of Functions (Secretary of State and Lord Advocate) Order 1972 (S.I. 1972, No. 2002).



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# Part I General survey of the past year

1.1 We remain reasonably satisfied with the progress of our law reform work. This is so despite the fact that only two of our law reform reports (together with a report in the statute law field) were published during the year under review<sup>1</sup> as opposed to five during the previous year. The nature of our work is such that variations of this kind are inevitable. Our projects vary greatly in size, difficulty and complexity and it is quite impossible to programme the work to fixed timetables. It is often only as work proceeds on a project that major problems and complexities emerge.

## Reports and consultative documents published

**Reports** 1.2 The two law reform reports published during the year under review deal respectively with child abduction<sup>2</sup> and sale of goods.<sup>3</sup> As mentioned in our last annual report,<sup>4</sup> the child abduction report, which followed a reference to us on the subject from the Secretary of State for Scotland, contains proposals (with, as usual, a draft Parliamentary Bill) designed to replace certain provisions relating to Scotland which were added to the largely English Child Abduction Act 1984. For the reasons stated in our last report, we believe that those provisions were less than satisfactory. We trust our proposals will be regarded as significantly better. The sale of goods report was prepared jointly with the Law Commission for England and Wales. So far as Scotland is concerned, we hope that the recommendations will go at least some way towards removing certain aspects of the existing statutory law of sale which have caused problems in the past and which have, we believe, always been ill adapted for the purposes of Scots law. During the year we also submitted a report recommending amendments in connection with a major consolidation of the Housing (Scotland) Acts.<sup>5</sup>

1.3 We think it right to mention two further law reform reports which have been published recently, even though these do not fall strictly within the period covered by this report. One is a report prepared jointly with the Law Commission for England and Wales which relates to the rather technical but nevertheless important topic of choice of law rules in marriage.<sup>6</sup> The other is our report on computer crime.<sup>7</sup> We will be particularly interested to learn the outcome of this report. It proposes changes designed to subject to the sanctions of the criminal law certain activities relating to computers. These are activities which are clearly objectionable but which do not appear to be struck at by our criminal law at the present time because, by and large, that law developed before computers were even dreamt of. Our work on this subject has attracted considerable interest not only in Scotland but in many other countries as well.

**Consultative documents** 1.4 During the year under review we published five consultative documents. Three of these relate to the law of succession,<sup>8</sup> one to floating charges and receivers,<sup>9</sup> and

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1. Strictly speaking, the period covered is the year ended 15 June 1987, but in order to present a more complete picture we refer below to more recent developments.

2. (1987) Scot Law Com No 102. See para 2.6 below.

3. (1987) Scot Law Com No 104. See para 2.20 below.

4. (1986) Scot Law Com No 101, para 1.10.

5. (1987) Scot Law Com No 103. See para 2.38 below.

6. (1987) Scot Law Com No 165; Scot Law Com No 105. See para 2.30 below.

7. (1987) Scot Law Com No 106. See para 2.5 below.

8. Consultative Memoranda No 69—*Intestate Succession and Legal Rights*; No 70—*The Making and Revocation of Wills*; No 71—*Some Miscellaneous Topics in the Law of Succession*. See paras 1.11, 2.31–2.32 below.

9. Consultative Memorandum No 72—*Floating Charges and Receivers*. See para 2.49 below.

one to rights of relief and contributory negligence.<sup>1</sup> We have more to say about these topics below.

## Current work

1.5 All aspects of our current work are referred to in detail in Part II of this report, but we mention here a number of topics of particular importance.

### Law reform work generally

1.6 As mentioned in our last annual report,<sup>2</sup> we have started work on the first phase of a study of administrative law which involves the topic of title and interest to sue for judicial review of administrative decisions.<sup>3</sup> The law on this subject is difficult and some of the problems have been highlighted recently since the increase in litigation in this area following the introduction in 1985 of a new procedure for judicial review in the Court of Session. We hope in the not too distant future to issue a consultative memorandum in which these problems will be examined. This memorandum will invite views as to whether the existing rules on title and interest to sue are too stringent and, if so, how they could best be modified. As at present advised, we intend leaving to a later stage other topics, such as the remedies available to the court in cases of judicial review.

1.7 In the field of criminal law, we have already mentioned our recent reports on child abduction and computer crime.<sup>4</sup> We have now turned our attention to the preparation of a consultative memorandum on certain aspects of evidence in criminal proceedings.<sup>5</sup> The suggestions on which views will be invited will include a possible increase in the use of certain kinds of documentary evidence and, in certain circumstances, of affidavits. The object would be to reduce the time and expense involved in calling witnesses to give oral evidence on matters which may be of a relatively routine nature or which are unlikely to be in dispute. The same memorandum is likely to deal with a number of other questions, including the scope of the use of prior statements made by persons who are in fact called as witnesses, and a problem which has given rise to considerable difficulty recently concerning the limited circumstances in which it is competent for the prosecution to refer to an accused person's previous convictions. At the next stage of the evidence project we propose at your request to consult on possible new procedures for taking the evidence of children (and perhaps others as well) who are alleged to have been the victims of sexual abuse or other ill-treatment.<sup>6</sup> With this in mind, we are actively pursuing enquiries about developments in other countries and we have in hand an arrangement for trying to secure a first hand account of how certain procedures involving the use of video equipment work in practice in parts of the United States of America.

1.8 In the area of diligence (ie the legal methods of enforcing unpaid debts), having submitted our first report,<sup>7</sup> which has now been largely implemented by the Debtors (Scotland) Act 1987,<sup>8</sup> we have commenced work on the next phase of reform. This will cover the forms of diligence used against heritable property for the enforcement of debt, namely adjudications for debt and inhibitions. It will also cover two topics closely related to diligence against heritable property but also covering aspects of diligence against moveables. These are equalisation of diligences outside insolvency processes and diligence on the dependence of court actions (ie the procedure for 'freezing' an alleged debtor's assets pending the grant of a court decree for payment). We have turned our attention first to adjudications for debt, the appropriate form of diligence for attaching heritable property. As might be expected of a diligence which

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1. Consultative Memorandum No 73—*Civil Liability—Contribution*. See para 2.22 below.

2. (1986) Scot Law Com No 101, para 2.2.

3. See paras 2.2–2.3 below.

4. See paras 1.2, 1.3 above.

5. See para 2.13 below.

6. *Ibid.*

7. (1985) Scot Law Com No 95. See paras 2.9–2.11 below.

8. 1987 c 18.



has hardly been changed since its institution in 1672, we have found adjudications to be archaic, cumbersome, complex, highly unsatisfactory for both creditor and debtor and (in marked contrast to inhibitions) in fact relatively little used. The law here needs a radical overhaul and we have been carefully considering, in addition to many technical issues, the question of how best to strike a fair and proper balance between the interests of creditors and debtors. We have undertaken empirical research on inhibitions and work has also commenced on equalisation of diligences. Thereafter we shall turn to diligence on the dependence.

1.9 In the field of family law, our work on reform of the law relating to the legal capacity and responsibility of young persons is now well advanced.<sup>1</sup> We hope shortly to submit a report and draft Bill recommending major reforms in this area. We believe that the existing law on this subject is excessively complex and is ill-adapted to modern conditions. This view received considerable support, both from our own consultees, responding to the consultative memorandum and 'popular pamphlet' setting out our provisional proposals, and in the results of public opinion surveys carried out on our behalf.

1.10 In the general area of obligations, we are formulating proposals for fairly radical simplification and rationalisation of the present very complex law as to the kinds of obligations which require writing for their constitution and those which can be proved only by writing, or by the archaic procedure of 'reference to oath'.<sup>2</sup> We are also preparing proposals for reform of much of the very old law concerned with the formalities of execution of writings. We believe that reform of these areas of the law is long overdue. This view was strongly supported on consultation. The subject presents considerable difficulties in matters of detail, but we are hopeful that we will be able to submit a report (again with a draft Bill) on this topic in the fairly near future.

1.11 We are undertaking a major review of the whole law of succession in Scotland.<sup>3</sup> This is a subject on which we have consulted very widely and carried out and commissioned extensive research. Here again, in addition to our usual consultation process, we have endeavoured with some degree of success to obtain the views of the general public by the publication of 'popular pamphlets' and by a particularly helpful public opinion survey conducted by the Central Research Unit of the Scottish Office (which we referred to in our last annual report).<sup>4</sup> In this area we have also repeated the experiment, referred to in our last annual report,<sup>5</sup> of holding public meetings. As before, we found these interesting and lively, even though we were unable to attract as large a 'turnout' as we might have wished. We are now proceeding with the preparation of a report and draft Bill.

1.12 We are currently examining problems which have come to the fore in recent court decisions<sup>6</sup> regarding the availability of rights of relief among joint wrongdoers. In this exercise we are also considering the separate question of whether the plea of contributory negligence should be available as a defence to an action founded on breach of contract. We have already consulted on these and certain other related issues, and our provisional proposals for reform have been generally supported. We hope to be able to return to this topic fairly soon when the member of our staff primarily engaged on the exercise can be released from other more urgent work.

1.13 A special problem arises regarding our examination of the highly technical and complex law relating to floating charges and receivers.<sup>7</sup> We have received comments on our consultative memorandum and would normally expect to be resuming work now on this topic. As mentioned in our last annual report,<sup>8</sup> however, the Department

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1. See para 2.14 below.

2. See para 2.17 below.

3. See paras 2.31–2.32 below.

4. (1986) Scot Law Com No 101, paras 1.20, 2.41.

5. Ibid, paras 1.21, 2.20.

6. *Comex Houlder Diving Ltd v Colne Fishing Co Ltd and Others* 1986 SLT 250; 1987 SLT 13, 443.

7. See para 2.49 below.

8. (1986) Scot Law Com No 101, para 2.21.

of Trade and Industry invited Professor A L Diamond, assisted by Mr A J Sim (formerly a senior member of the staff of this Commission) to look at the law of security over moveable property on a Great Britain basis. We are not in a position to know the likely outcome of this review, but it is conceivable that it may have a major impact on the present law of Scotland relating to floating charges. It has occurred to us, therefore, that there might be a case for delaying completion of our work on this topic pending the outcome of the Diamond Review.

1.14 Another complex project on which we are currently engaged is a review of the law relating to recovery of possession of heritable property.<sup>1</sup> This is primarily, though by no means exclusively, concerned with the procedure whereby a landlord can recover possession of leased property on the expiry of the lease. This project has still some way to go before we will be in a position to submit a report.

1.15 However, we expect to publish in the near future a report and draft Bill on another matter which principally concerns leases, namely the Scottish term and quarter days.<sup>2</sup> This report is designed to remove the confusion and uncertainty which now exists because the traditional words used to express the term days in Scotland, namely Whitsunday and Martinmas, import different dates for different purposes in law, and may also have customary meanings in different parts of Scotland. In addition, we have given consideration to the quarter days, that is Whitsunday and Martinmas when taken along with the days denoted by Candlemas and Lammas. These days are used for purposes such as rental payment dates under a lease, but the dates on which they in fact fall do not divide the year into even approximately equal quarters. We believe that this also should be corrected by legislation.

1.16 We expect to publish shortly a substantial consultative memorandum on the technical, but in practical terms rather important, topic of prescription and the limitation of actions, dealing with (amongst other things) claims in respect of latent damage (other than those involving personal injury).<sup>3</sup> This covers, for example, the question of the time limits within which a person must bring an action for damages in respect of loss resulting from hidden defects in a building. In examining this topic, we have been conscious of the desirability of striking a proper balance between the different interests involved, such as those of designer, builder and owner of a house. We have not found this at all easy and we look forward to receiving in due course comments and suggestions from the organisations and individuals we intend to consult, particularly those with practical experience of the problems involved.

1.17 We continue to enjoy an excellent relationship with the Law Commission for England and Wales and have been working jointly with our London colleagues on a number of projects, mainly in the private international law field, which lends itself particularly to joint treatment. We have already mentioned above the recent publication of a joint report on choice of law rules in marriage,<sup>4</sup> and we anticipate that a joint report on domicile will be published in the very near future.<sup>5</sup>

1.18 Lastly, we have been giving some preliminary consideration to the possibility of undertaking a substantial review of the law of land tenure in Scotland.<sup>6</sup> The feudal system is still the basis of most of our land tenure law, though much of the practical substance of the feudal law has, over a long period, been whittled away by statute. While we are not committed to a view on this matter, it appears to us at least arguable that now that so much of substance has been removed from the system, the formal shell of the feudal system may be serving little purpose and could possibly be usefully replaced by some system of direct ownership. Some research is being carried out in this connection at the University of Aberdeen and we intend to return to the topic

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1. See para 2.50 below.

2. See para 2.51 below.

3. Scot Law Com No 74—*Prescription and Limitation of Actions (Latent Damage)* was published on 2 September 1987. See para 2.24 below.

4. See para 1.3 above.

5. The report, (1987) Law Com No 168; Scot Law Com No 107—*The Law of Domicile*, was published on 3 September 1987. See para 2.29 below.

6. See para 2.52 below.

at a later date. We would not, of course, make any recommendations for changing the existing law without, as usual, consulting widely in the first instance.

**Statute law work** 1.19 As regards our statute law work, the main point to which we would draw particular attention is the completion and subsequent enactment of the Housing (Scotland) Bill.<sup>1</sup> This is by far the largest consolidation ever undertaken by this Commission. Its preparation placed an exceptionally heavy burden on the part-time Parliamentary Draftsman attached to this Commission who dealt with the matter and also upon our secretarial staff, who coped with the work involved with their usual cheerful willingness.

1.20 The never-ending process of statute law revision (the removal of dead wood from the Statute Book) continues as before.<sup>2</sup> This work, which we carry out jointly with the Law Commission for England and Wales, does not normally 'hit the headlines', but it is important and we hope that we will be able to make a worthwhile contribution to the current joint exercise despite the considerable pressure on our limited resources in this area. In this regard, we have received a good deal of help once again from recent graduates in law who have worked with us during the summer vacation. We look forward to repeating this arrangement in future years.

## Implementation

1.21 The rate of implementation by Parliament of our proposals continues to be a source of much encouragement to us. All the Bills referred to in paragraph 1.23 of last year's annual report have now reached the Statute Book.<sup>3</sup> In addition, as well as the consolidation of the Housing (Scotland) Acts already referred to,<sup>4</sup> the 1986–87 Session saw the implementation by the Debtors (Scotland) Act 1987<sup>5</sup> of the main proposals in our massive first report on diligence, the inclusion in the Criminal Justice (Scotland) Act 1987<sup>6</sup> of provisions giving effect to the proposals in our report on art and part guilt and the implementation by the Animals (Scotland) Act 1987<sup>7</sup> of our proposals regarding civil liability for animals.

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1. See para 2.38 below.

2. See para 2.42 below.

3. Incest and Related Offences (Scotland) Act 1986 (c 36); Law Reform (Parent and Child) (Scotland) Act 1986 (c 9); Statute Law (Repeals) Act 1986 (c 12); Family Law Act 1986 (c 55).

4. See para 1.19 above.

5. 1987 c 18.

6. 1987 c 41.

7. 1987 c 9.

# Part II Progress of law reform projects

2.1 The present position<sup>1</sup> in each of our current law reform projects is set out in the following paragraphs. The main subject headings are presented in alphabetical order. Programme subjects, which derive from our published programmes,<sup>2</sup> are denoted by the use of an asterisk.

## Administrative law

2.2 Work is continuing on the first phase of our project on administrative law. Our intention is to publish as soon as possible a consultative memorandum on title and interest to sue for judicial review under the common law supervisory jurisdiction of the Court of Session. Subject to further consideration as our work progresses, we are currently planning to deal also with review under statute. For this purpose we commissioned Mr C M G Himsforth, Senior Lecturer in the Department of Constitutional and Administrative Law at the University of Edinburgh, to carry out two studies on title-conferring formulae in relevant legislation. One is concerned with legislation providing for review of administrative decisions by the sheriff, the other with analogous legislation providing for applications and appeals to the Court of Session. The results of these studies are now available to us.

2.3 In our last annual report<sup>3</sup> we mentioned the prospect of empirical research on administrative law being carried out at the University of Edinburgh. This began in October 1986. A research student funded by the Economic and Social Research Council is studying the impact of decisions of the sheriff on the administrative authorities subject to his statutory powers of review. A member of our legal staff is actively involved in the direction of this research. Our hope is that it will produce findings which may be useful in a later phase of our administrative law project dealing with remedies.

## Criminal law

**General** 2.4 The bulk of the work in the criminal law field has continued to derive from proposals for law reform projects under section 3(1)(a) of the Law Commissions Act 1965 and requests for advice, or 'references', under section 3(1)(e) of that Act. We also respond to consultation by the Law Commission for England and Wales and other bodies. It is thought that future work may arise in relation to the law of theft, particularly in cases where an intention permanently to deprive an owner of his property may not be present.

**Computer crime** 2.5 Our report on *Computer Crime*<sup>4</sup> was submitted to you on 22 June and published on 23 July 1987. The principal recommendation made in the report is that it should be an offence for a person to obtain unauthorised access to a computer's program or data in order to acquire knowledge of or to alter the program or data with the intention of gaining an advantage for himself or someone else or of damaging another person's interests. (A new offence relating to unauthorised access was widely supported on consultation.) As indicated in our last annual report,<sup>5</sup> this project stemmed

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1. For the sake of presenting a more complete picture, we mention also certain developments which have taken place since the end of our reporting period (15 June 1987).

2. First Programme, (1965) Scot Law Com No 1; Second Programme, (1968) Scot Law Com No 8; Third Programme, (1973) Scot Law Com No 29.

3. (1986) Scot Law Com No 101, para 2.4.

4. (1987) Scot Law Com No 106.

5. (1986) Scot Law Com No 101, para 2.11.

from a proposal by the Law Society of Scotland under section 3(1)(a) of the Law Commissions Act 1965.

**Child abduction** 2.6 Our report on *Child Abduction*<sup>1</sup> was submitted to the Secretary of State for Scotland on 23 December 1986 and published on 12 February 1987. The report recommends the abolition of the common law crime of *plagium* (the ancient crime of child-stealing) and the creation of two new offences. The first of these is the taking or detaining of a child under the age of 16 from the control of any person having lawful control of that child. The second is the taking or sending of a child out of the United Kingdom in contravention of a court order prohibiting the removal of the child from the United Kingdom or any part of it.

**Art and part guilt of statutory offences** 2.7 Our report on *Art and Part Guilt of Statutory Offences*,<sup>2</sup> published on 18 July 1985, recommended the creation of a new, general offence of aiding, abetting, counselling, procuring or inciting the commission of any statutory offence. The proposals contained in the report have been implemented in section 64 of the Criminal Justice (Scotland) Act 1987.<sup>3</sup>

**Forfeiture of the proceeds of crime** 2.8 Part I of the Criminal Justice (Scotland) Act 1987 contains forfeiture provisions in relation to drug trafficking offences broadly similar to those enacted for England and Wales in the Drug Trafficking Offences Act 1986.<sup>4</sup> We understand that we may shortly be asked by the Secretary of State for Scotland to resume work on wider aspects of the reference received from him in February 1985.<sup>5</sup>

## Diligence\*

(Second Programme, Item 8)

2.9 Our work on the first phase of the diligence project culminated in the publication on 14 November 1985 of our Report on *Diligence and Debtor Protection*.<sup>6</sup> Most of the recommendations in that Report were implemented (with modifications) by the Debtors (Scotland) Act 1987<sup>7</sup> which received the Royal Assent on 15 May 1987.

2.10 In our last annual report,<sup>8</sup> we referred to the preparation of two consultative memoranda: one on diligence against heritable property (covering primarily inhibitions and adjudications); and the other on diligence on the dependence (primarily arrestments and inhibitions on the dependence). Because of the complexity of the subject matter and the need to add further topics, it is presently proposed to split the former into two separate consultative memoranda. The first memorandum, on which work is well advanced, is likely to deal with: adjudications for debt; the possible abolition of common law pecuniary real burdens on land; the possible abolition of actions of poinding of the ground; and the enactment of a uniform code relating to statutory charging orders on land.

2.11 We anticipate that the topics of inhibition in execution and diligence on the dependence would be dealt with in two further consultative memoranda and that an additional topic, equalisation of diligence (arrestments, poindings and adjudications), would be considered in a fourth consultative memorandum. Reform of the law on the topics to be covered by these four memoranda would constitute the second phase of our work on diligence.

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1. (1987) Scot Law Com No 102.

2. (1985) Scot Law Com No 93.

3. 1987 c 41.

4. 1986 c 32.

5. See our Twentieth Annual Report, (1985) Scot Law Com No 98, para 2.12.

6. (1985) Scot Law Com No 95.

7. 1987 c 18.

8. (1986) Scot Law Com No 101, para 2.15; see also para 1.9.

\* Denotes programme subject.

## Evidence\*

(First Programme, Item 1)

2.12 Our report on *Corroboration, Hearsay and Related Matters in Civil Proceedings*<sup>1</sup> was published on 22 May 1986. In that report we recommended that the requirement of corroboration in civil proceedings, insofar as it still applies, should be abolished. We also recommended the abolition of the rule against hearsay in civil proceedings, subject to various safeguards. We further made recommendations to facilitate the use of certified copies of records as if they were originals and, unless the court otherwise directs, to permit their use in evidence without being spoken to by a witness. For the avoidance of doubt, we also recommended that the reforms we proposed for civil proceedings should extend to hearings by a sheriff under section 42 of the Social Work (Scotland) Act 1968 of an application for a finding as to whether the grounds for the referral of a case to a children's hearing were established.<sup>2</sup>

2.13 In our examination of comparable areas of the law of evidence in criminal proceedings different policy considerations have arisen. We have reached an advanced stage in the preparation of a consultative memorandum on documentary and computer evidence in criminal proceedings. In the proposed consultative memorandum we shall also examine, in accordance with your recent request, the law governing the circumstances in which an accused may be cross-examined as to his character and previous convictions in the light of the recent cases of *Templeton v McLeod*<sup>3</sup> and *Conner v Lockhart*<sup>4</sup>. We have also commenced the preparation of a consultative memorandum on the admissibility of evidence of children by means of live video link or video recording in cases of child sexual abuse or other serious physical assaults. In addition, we shall consider whether the evidence of adult witnesses might in certain circumstances be presented in similar ways.

## Family law\*

(Second Programme, Item 14)

2.14 On 26 June 1985, as the first stage of our major project on reform of the law of children, we published Consultative Memorandum No 65—*Legal Capacity and Responsibility of Minors and Pupils*. Work is progressing on the preparation of a draft report and relative draft Bill with a view to submission to you later this year.

## Obligations\*

(First Programme, Item 2)

### Rights in security over moveable property

2.15 As we indicated in our last annual report,<sup>5</sup> work on the above topic has been suspended pending the outcome of the review for Great Britain of the law of security over moveable property (including company charge registration) commissioned by the Department of Trade and Industry. This review is being undertaken by Professor A L Diamond (formerly Director of the Institute of Advanced Legal Studies, University of London) together with Mr A J Sim, a recently retired senior member of our legal staff.

2.16 The question of the extent of any further involvement by us in this area of the law will fall to be re-assessed after the current review has been completed.

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1. (1986) Scot Law Com No 100.

2. Except in so far as the application related to a ground mentioned in section 32(2)(g) of the 1968 Act. (Ground (g) is that the child has committed an offence; this attracts the standard of proof required of criminal proceedings.)

3. 1985 SCCR 357.

4. 1986 SCCR 360.

5. (1986) Scot Law Com No 101, para 2.21.

\* Denotes programme subject.

- Constitution and proof of voluntary obligations and the authentication of writings** 2.17 Consultative Memorandum No 66—*Constitution and Proof of Voluntary Obligations and the Authentication of Writings*—was published on 31 July 1985 with a request for comments by 31 March 1986. An analysis of the comments received has been carried out and work is in hand on the preparation of a report and relative draft Bill which we hope to submit to you in the near future. n/c
- Corporeal moveables** 2.18 No further work is being undertaken in this area for the time being.
- Civil liability in relation to animals** 2.19 Our report on *Civil Liability in relation to Animals*<sup>1</sup> was implemented by the Animals (Scotland) Act 1987<sup>2</sup> which received the Royal Assent on 9 April 1987. The report was regarded by the Government as suitable for implementation by a private Member of Parliament with Government support. It was accordingly introduced into the House of Lords by the Earl of Selkirk and managed in its passage through the House of Commons by Lord James Douglas-Hamilton, MP.
- Sale and supply of goods** 2.20 The joint report of the two Law Commissions on Sale and Supply of Goods<sup>3</sup> was submitted on 16 April 1987 and published on 28 May 1987. The report recommends for Great Britain: the reform of the implied term as to quality in all consumer and commercial contracts for the sale and supply of goods; the modification of rules relating to the buyer's loss of the right to reject non-conforming goods; the introduction of a new right of partial rejection for buyers where some or all of the goods delivered are non-conforming; the preservation of the consumer's right to reject non-conforming goods, but coupled with a modification of the commercial buyer's rights of rejection to prevent his unreasonable exercise of such rights; and modification of the rules governing the buyer's rights on the delivery of a wrong quantity of goods. In addition, it is recommended in relation to Scotland: that terminology inappropriate for Scots law in this context should be replaced; that provisions corresponding to Part I of the Supply of Goods and Services Act 1982 should be enacted for Scotland; and that the customer's principal remedies on breach by the supplier of goods in contracts of sale, hire purchase and for the transfer of goods should be stated in legislation.
- Legal capacity of minors and pupils** 2.21 As indicated above,<sup>4</sup> work is progressing on this topic as part of our major project on reform of the law of children.
- Rights of relief and contributory negligence** 2.22 On 6 November 1986, we published Consultative Memorandum No 73 on *Civil Liability—Contribution* with a request for comments by 30 April 1987. An analysis of the comments received has been carried out and we will shortly be re-assessing the options for reform.
- Other obligations topics** 2.23 The position regarding other topics in the obligations field mentioned in our Twentieth Annual Report<sup>5</sup> remains unchanged. n/c

### Prescription and Limitation of Actions\* (First Programme, Item 3)

2.24 As we mentioned in our last annual report,<sup>6</sup> considerable interest and concern have been expressed in Scotland and elsewhere regarding the problems arising from latent damage within the context of prescription and the limitation of actions. Work has just been completed on a consultative memorandum which examines the above topic, and also some miscellaneous issues arising out of the current law of prescription and limitation of actions generally. It is anticipated that the memorandum will be published in the near future.<sup>7</sup>

1. (1985) Scot Law Com No 97.

2. 1987 c 9.

3. (1987) Law Com No 160; Scot Law Com No 104.

4. See para 2.14 above.

5. (1985) Scot Law Com No 98, para 2.32.

6. (1986) Scot Law Com No 101, para 2.33.

7. Scot Law Com No 74—*Prescription and Limitation of Actions (Latent Damage)* was published on 2 September 1987.

\* Denotes programme subject.

## Private International Law\*

(Third Programme)

- Choice of law rules in tort and delict** 2.25 In December 1984 the two Law Commissions published a joint consultative document on the choice of law rules in tort and delict.<sup>1</sup> Comments were invited by 16 July 1985. Decisions on the broad approach to reform were taken at a joint meeting of the two Commissions held in 1986, but we have only recently been able to turn to the more detailed issues arising with regard to this topic.
- Conflicts of jurisdiction affecting the custody of children** 2.26 The joint report by the two Law Commissions on *Custody of Children—Jurisdiction and Enforcement within the United Kingdom*<sup>2</sup> was published on 15 January 1985. Its recommendations have been implemented in the Family Law Act 1986.<sup>3</sup>
- Recognition of foreign nullity decrees, etc** 2.27 The joint report by the two Law Commissions on *Recognition of Foreign Nullity Decrees and Related Matters*<sup>4</sup> was published on 19 September 1984. The recommendations in this report have been implemented (with some modification) in the Family Law Act 1986.<sup>5</sup>
- Polygamous marriages** 2.28 The joint report by the two Law Commissions on *Polygamous Marriages—Capacity to Contract a Polygamous Marriage and Related Issues*<sup>6</sup> was published on 8 August 1985. As yet no legislation has been introduced to implement the recommendations in the report.
- Domicile** 2.29 The two Law Commissions published a joint consultative document on the law of domicile<sup>7</sup> on 16 April 1985 with an invitation to comment by 31 July 1985. Having resolved an outstanding policy issue at a joint meeting of the two Commissions in April 1987, we submitted our report on 31 July 1987.<sup>8</sup>
- Choice of law rules in marriage** 2.30 Following on a joint consultative document<sup>9</sup> published on 16 April 1985, the joint report by the two Law Commissions on *Choice of Law Rules in Marriage*<sup>10</sup> was submitted to you on 29 May and published on 2 July 1987. The effect of the report's principal recommendations would be: first, that a domiciled Scot over the age of 16 would no longer require parental consent to marry by means of a 'consular marriage' under the Foreign Marriage Act 1892; second, that an existing discrimination between religious denominations as regards the form of ceremony to be used in a consular marriage would be removed; and, third, that the rules of eligibility for having a marriage solemnised abroad by a Forces' chaplain would be extended to cover United Kingdom civil servants and sponsored civilians accompanying the Forces abroad.

## Succession\*

(Second Programme, Item 7)

2.31 On 10 September 1986 we published three consultative memoranda on the law of succession. Consultative Memorandum No 69—*Intestate Succession and Legal Rights* discussed possible reforms of the law of intestate succession and the claims which can be made by a person who is excluded from inheriting either by a will or by the law of intestate succession. This Memorandum took account of the results of

1. Law Commission Working Paper No 87; Scottish Law Commission Consultative Memorandum No 62—*Choice of Law in Tort and Delict*.

2. (1985) Law Com No 138; Scot Law Com No 91.

3. 1986 c 55.

4. (1984) Law Com No 137; Scot Law Com No 88.

5. 1986 c 55.

6. (1985) Law Com No 146; Scot Law Com No 96.

7. Law Commission Working Paper No 88; Scottish Law Commission Consultative Memorandum No 63—*The Law of Domicile*.

8. (1987) Law Com No 168; Scot Law Com No 107—*The Law of Domicile* was published on 3 September 1987.

9. Law Commission Working Paper No 89; Scottish Law Commission Consultative Memorandum No 64—*Choice of Law Rules in Marriage*.

10. (1987) Law Com No 165; Scot Law Com No 105.

\* Denotes programme subject.



a public opinion survey carried out for us by System Three Scotland on attitudes to various issues arising in succession law. Consultative Memorandum No 70—*The Making and Revocation of Wills* looked at the possible validation of improperly executed wills, rectification of wills to correct errors of expression and what effect the testator's subsequent marriage or divorce should have on his or her will. Consultative Memorandum No 71—*Some Miscellaneous Topics in the Law of Succession* covered a variety of matters including criminal heirs, the Forfeiture Act 1982, presumptions of survivorship and special destinations.

2.32 In our last annual report<sup>1</sup> we suggested that succession was a very suitable topic for a 'popular pamphlet' since many people have clear views on the basic principles of inheritance and the division of estates even though they do not know (and do not necessarily wish to know) all the technical and detailed considerations involved. At the same time as publishing the three consultative memoranda, we therefore published a short pamphlet, covering the main issues and aimed at the general public. This was circulated widely throughout Scotland. The number of comments we received from individuals and organisations as a result of the pamphlet confirms our view that such a method of consultation is worthwhile in appropriate cases. We also held public meetings at Glasgow, Edinburgh and Dundee in order to help to elicit a reasonably wide response to our provisional proposals for reform. We have recently been reassessing the options for reform in the light of the various comments received from those we consulted.

2.33 Last year we commissioned a research project to study a representative sample of wills and confirmations in order to establish how estates are inherited at present. The fieldwork has been completed and we are awaiting a report of the findings.

## Statute law

- Consolidation** 2.34 As in the past, progress is recorded under two heads: consolidation of legislation applying to Scotland only; and consolidation of legislation extending to other parts of the United Kingdom as well as to Scotland.
- (a) *Scotland-only consolidations*  
*First Programme*<sup>2</sup> 2.35 *Court of Session*—Consultation on the latest print of the Bill with the authorities and interests concerned resulted in some very helpful comments being made. Mainly because of other demands of higher priority on the draftsman's services, it was not possible to have the Bill ready for introduction in the 1986–87 Parliamentary Session. It is hoped, however, that it will be ready to be introduced during the 1987–88 Session.
- Second Programme*<sup>3</sup> 2.36 As mentioned in previous annual reports, work on the Commission's Second Programme of Consolidation and Statute Law Revision has been completed.
- Third Programme*<sup>4</sup> 2.37 Work on four of the items in the Third Programme (Adoption, Slaughterhouses, Water and Rents) has been completed. Good progress has been made with work on the consolidation of the *Prisons* legislation and it is hoped that the Bill will be introduced during the 1987–88 Session. With our agreement, work on the *Valuation and Rating* consolidation is now being undertaken by a draftsman in the Lord Advocate's Department as a follow-up to recent Government legislation in the rating field. The position regarding the other items in the Third Programme remains as stated in our last annual report.<sup>5</sup>
- Fourth Programme*<sup>6</sup> 2.38 Work on one of the four items contained in the Commission's Fourth Programme of Consolidation and Statute Law Revision, namely Foster Care, has been

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1. (1986) Scot Law Com No 101, para 1.19.

2. (1966) Scot Law Com No 2.

3. (1973) Scot Law Com No 27.

4. (1978) Scot Law Com No 46.

5. (1986) Scot Law Com No 101, para 2.45.

6. (1982) Scot Law Com No 71.

completed. The position regarding the remaining three items in the Programme is as follows:

- (1) *Housing*—The Housing (Scotland) Bill was introduced and considered by the Joint Committee on Consolidation Bills towards the end of the 1986–87 Parliamentary Session. Our report<sup>1</sup> making recommendations for removal of minor anomalies in the existing housing legislation was published in conjunction with the Bill on 17 March 1987. This Bill, extending to 340 clauses and 24 schedules, was the largest consolidation Bill ever produced at the Commission, and we are pleased to record that it was enacted before the dissolution of Parliament last June.<sup>2</sup>
- (2) *Planning*—The position remains as stated in our last annual report.<sup>3</sup>
- (3) *Criminal procedure*—Again the position remains as stated in our last annual report.<sup>4</sup>

*Additional items* 2.39 As mentioned in our last annual report,<sup>5</sup> with our agreement a draftsman in the Lord Advocate's Department is undertaking the preparation of a Bill to consolidate the legislation relating to *Agricultural Holdings* in Scotland. A first draft of the proposed Bill has been produced and is now with the Scottish Office for comment. It is hoped that the Bill may be ready for introduction in the course of the 1987–88 Session. Again with our agreement, the preparation of a Bill to consolidate the *Food and Milk* legislation applying to Scotland is also being undertaken by a draftsman in the Lord Advocate's Department. Work has been put in hand on a first draft of the Bill.

(b) *United Kingdom and Great Britain consolidations* 2.40 The following Act has been passed since completion of our last annual report: Parliamentary Constituencies Act 1986.<sup>6</sup>

2.41 Bills on the following subjects are in course of preparation:

Charitable Appeals and Collections  
Income and Corporation Taxes  
Opticians  
Road Traffic  
Sea Fisheries  
Social Security  
Stamp Duty.

(Work on the Clean Air consolidation is in abeyance for the time being.)

**Statute law revision** 2.42 Work is proceeding on the Thirteenth Joint Report on Statute Law Revision with a view to introducing a Bill into Parliament as soon as practicable. Several projects in this field are under way, including one dealing with legislation affecting the Scottish courts and one concerned with a group of early Piracy Acts. A major review of pre-1707 Acts of the Scottish Parliaments is also under consideration. However, this is a large undertaking and it may have to be postponed, depending on the resources available.

**Local legislation** 2.43 The Joint Working Party on Local Legislation met on 6 July 1987. Two papers, dealing respectively with the Companies Clauses Acts and Local Statutory Instruments, were considered.

2.44 Work is continuing, mainly in London, on the Chronological Table of Local and Personal Acts. As a result of the first phase of the work,<sup>7</sup> it has been possible to embark on a review of local authority Private Acts in Scotland in conjunction with the local authorities. Progress has been made towards assembling a schedule of

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1. (1987) Scot Law Com No 103.

2. See *Housing (Scotland) Act 1987* (c 26).

3. (1986) Scot Law Com No 101, para 2.46(2).

4. *Ibid.*, para 2.46(3).

5. (1986) Scot Law Com No 101, para 2.47.

6. 1986 c 56.

7. See Twenty-First Annual Report, (1986) Scot Law Com No 101, para 2.54.

repeals of such legislation for inclusion eventually in a Statute Law (Repeals) Bill, but the consultation process may take some time to complete.

## Other matters

**Breach of confidence** 2.45 No indication has yet been given as to whether a Bill may be introduced to implement the possible scheme of legislative reform contained in our report on *Breach of Confidence*<sup>1</sup> published on 20 December 1984. That scheme was put forward in the report as a means of supplementing the existing common law principles, should this be considered desirable.

**Judicial factors** 2.46 In April 1986 we received from the Law Society of Scotland a proposal under section 3(1)(a) of the Law Commissions Act 1965 in the following terms:

‘To consider the law relating to the administration of the property of persons who are incapable of managing their own affairs, and the law relating to judicial factors and their supervision by the Accountant of Court, with a view to proposing appropriate reform of the law where that may appear to be necessary.’

2.47 We have had a series of meetings with interested individuals and organisations in order to discover the areas in which problems are encountered in practice. In the summer of 1986 a research student carried out a study of recent reforms in other jurisdictions. Because of other commitments it has not been possible to do much further work on this topic, although a member of our legal staff is on a working party set up by Scottish Action on Dementia to look at alternative methods of regulating the personal and financial affairs of dementia sufferers. We regard this as an important topic and intend to proceed with work on it as soon as other commitments permit. Our initial objective is to issue in due course one or more consultative memoranda discussing options for managing the property and finances of those who are unable to look after their affairs and dealing also with more technical issues in this area.

**Powers of attorney** 2.48 We also received from the Law Society of Scotland in April 1986 a proposal on the topic of powers of attorney in the following terms:

‘To consider the law relating to powers of attorney with a view to proposing appropriate reform of the law where that may appear to be necessary.’

Here again we had a series of meetings to discover what problems exist, and a survey of recent reforms elsewhere was carried out. Owing to other pressures, it has not been possible to make further progress on this topic, but again we intend to proceed with work as soon as our other commitments permit. We plan to issue in due course a consultative memorandum exploring the uncertainty of the present law in relation to such matters as the protection of parties who deal with an attorney, the legal protection of the attorney and the scope of the attorney’s powers.

**Floating charges and receivers** 2.49 Consultative Memorandum No 72—*Floating Charges and Receivers*—was published on 3 October 1986 with an invitation to submit comments by 31 March 1987. We will shortly be re-assessing the policy options for reform, in light of the comments received, with a view to submitting a report to Government in due course. The nature and timing of any further work in this area may well be influenced, however, by the outcome of the general review for Great Britain of the law relating to security over moveable property commissioned by the Department of Trade and Industry.<sup>2</sup>

**Recovery of possession of heritable property** 2.50 We have considered the response to the consultation paper on the entitlement of parties to a lease to contract out of the statutory provisions relating to termination<sup>3</sup> and the policy on the issues raised has now been settled. Work is proceeding on the preparation of a report and draft Bill, covering the whole area of the reference on

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1. (1984) Scot Law Com No 90.

2. See para 2.15 above regarding ‘Rights in Security over Moveable Property’.

3. See our Twenty-First Annual Report, (1986) Scot Law Com No 101, para 2.60.

recovery of possession of heritable property. We hope to submit this report to you and the Secretary of State for Scotland in the not too distant future.

**The Scottish term and quarter days**

2.51 Our examination of this subject arose out of our exercise on recovery of possession of heritable property.<sup>1</sup> We decided to deal with it as a separate topic, and issued a consultation paper concerning a possible statutory definition of the Scottish term and quarter days for all purposes in law.<sup>2</sup> Having considered the response to the questions raised and formulated our policy on the topic accordingly, we submitted our report and relative draft Bill on 24 August 1987.

**Land tenure reform**

2.52 There has recently been an exchange of correspondence with the Scottish Home and Health Department concerning the topic of land tenure reform. This topic appears to us to be worthy of examination and the Department has been informed that we would be willing to receive in due course a suitable reference from the Secretary of State for Scotland under section 3(1)(e) of the Law Commissions Act 1965. Research in this area of the law is already being carried out at the University of Aberdeen. We are being kept informed about the progress of that research project and await its completion with considerable interest.

### Miscellaneous: advice to Government Departments, etc

2.53 It has been our practice to mention under this heading items which do not readily fit into any of the other classifications adopted in this report, including matters of an international character on which our advice has been sought by Government departments. In some instances such matters have been the subject of formal references to us under section 3(1)(e) of the Law Commissions Act 1965 and have resulted in our undertaking law reform projects. Matters in this category are covered elsewhere in this report. In other cases, however, the requests have been dealt with informally. We do not think it would be appropriate for us to give an exhaustive list of matters in the second category in this report.

**Reservation of title to corporeal moveable property**

2.54 It is understood that the draft European convention on reservation of title to corporeal moveables referred to in previous annual reports<sup>3</sup> still remains under consideration in the Council of Europe, and that work on a draft EEC Directive on the same topic is still in abeyance pending the outcome of the discussions on the draft Convention.

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1. See our Twenty-First Annual Report, (1986) Scot Law Com No 101, para 2.60.  
2. (1986) Consultation Paper—*The Scottish Term and Quarter Days: A Statutory Definition*.  
3. See our Nineteenth Annual Report (1984) Scot Law Com No 89, para 3.58.

# Part III Consultation

## The Law Commission for England and Wales

### **The Law Commission for England and Wales**

3.1 We continue our close co-operation with the Law Commission for England and Wales. During the year under review we have worked together on various matters, including sale and supply of goods,<sup>1</sup> choice of law rules in tort and delict,<sup>2</sup> the law of domicile<sup>3</sup> and choice of law rules relating to marriage.<sup>4</sup> The annual Joint Meeting was held in London on 28 and 29 April 1987.

3.2 We are grateful to the Law Commission for England and Wales for continuing to keep us informed of the progress of its work on topics of interest to us, and for affording us the opportunity to comment from time to time on the possible implications for Scotland of certain of its projects.

### **Working party on contract law**

3.3 Our Working Party<sup>5</sup> on Contract Law has remained in being for the purpose of considering relevant papers published by the Law Commission for England and Wales and such other matters as may be referred to it from time to time.

## Other law reform organisations

3.4 We have maintained our contact with law reform organisations in various parts of the world and are pleased to welcome members of these organisations who come to visit us.

## The legal and other professions, etc

3.5 We continue to consult with the leading organisations of the legal and other professions in Scotland and with other bodies. In this regard, we have continued to hold informal meetings with representatives of the Faculty of Advocates and the Law Society of Scotland and have found these meetings most useful. As in previous years, we wish to record our appreciation of the valuable assistance afforded by those whom we have invited to act as consultants or advisers and by others who have served on our working parties.

3.6 We are also most grateful for the help we continue to receive from the Librarian and staff of the Edinburgh University Library, Edinburgh University Law Library, the Centre of European Governmental Studies, the National Library of Scotland, the Advocates' Library, the Signet Library and the Institute of Advanced Legal Studies, London.

## Conferences, seminars, etc

3.7 Commissioners and members of our legal staff attended a number of conferences, seminars and colloquia in the course of the year under review: a few of the more important of these are mentioned below.

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1. See para 2.20.

2. See para 2.25.

3. See para 2.29.

4. See para 2.30.

5. A list of the present members of the Working Party appears in Appendix I to this report.

3.8 Sheriff Nicholson attended the Eighth Commonwealth Law Conference, held in Jamaica from 6 to 13 September 1986, and presented a paper on the topic of codification as a tool of law reform. He also attended the Annual Conference of the Scottish Association for the Study of Delinquency held at Peebles from 14 to 16 November 1986. In addition, he attended the Annual Conference of the Data Protection and Security Division of the National Computing Centre, held at Brighton from 24 to 26 February 1987, at which he presented a paper entitled 'Computer Crime—A Need for Law Reform'.

3.9 Sheriff Nicholson and Professor Love attended the Annual Conference of the Law Society of Scotland, held at Gleneagles Hotel from 10 to 12 April 1987. As in previous years, the informal discussions with practising members of the profession about aspects of the Commission's work which took place against the background of the conference proved most beneficial.

# Part IV Miscellaneous

## Commissioners

4.1 The Commission consists of a full-time Chairman, two full-time Commissioners, and two part-time Commissioners. The present Commissioners are:

The Honourable Lord Maxwell, <i>Chairman</i>	(Full-time)
Dr E M Clive	(Full-time)
Professor P N Love, CBE	(Part-time)
Mr J Murray, QC	(Part-time)
Sheriff C G B Nicholson, QC	(Full-time)

## Staff

4.2 Our legal staff consists of one full-time and two part-time Parliamentary Draftsmen, our Secretary and eight other qualified lawyers. During the year we received assistance from a Depute Procurator Fiscal who has undertaken valuable research on our behalf into criminal law matters. During the summer vacation of 1986 we employed five honours graduates in law to assist with our research work. We wish to thank them all for their assistance. Our complement of non-legal staff remains at eleven.

4.3 At the date of preparation of this report the principal members of staff were:

### *Parliamentary draftsmen*

Mr J F Wallace, QC	(Full-time)
Mr G S Douglas, QC	(Part-time)
Mr W C Galbraith, QC	(Part-time)

### *Secretary*

Mr R Eadie<sup>1</sup>

### *Assistant Solicitors*

Mr N R Whitty  
Mrs L A Lilleker

### *Other members of legal staff<sup>2</sup>*

Mr J G S Maclean  
Dr D I Nichols  
Mr J C Mullin  
Miss J L McLeod  
Mrs D F Barbirou  
Mr M McMillan

### *Librarian*

Mrs C A John

### *Chief Clerk*

Mrs M J W Turnbull

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1. Mr Eadie ceased to be Secretary of the Commission on 13 August 1987. His successor is Mr K F Barclay.  
2. In addition, as indicated above, valuable assistance has been received from a Depute Procurator Fiscal. Throughout most of the period under review the Depute Procurator Fiscal concerned was Mr D Kelly, who was an active member of both the criminal law and evidence teams.

## Departmental committees and other bodies

4.4 Our Commissioners and legal staff are from time to time appointed to serve on Government and departmental committees and as members of other bodies concerned with the development and reform of the law.

### **Statute Law Committee**

4.5 Our Chairman serves on the Statute Law Committee and is a member of the Editorial Board for Statutes in Force. The Commission's full-time Parliamentary Draftsman continues to act as an alternate member of both bodies. In addition, our Secretary is a member of the 'Secretariat' set up under the chairmanship of Sir Derek Oulton, KCB, QC,<sup>1</sup> to assist the Statute Law Committee in its work.

### **Advisory committees on arbitration law** *Department of Trade and Industry Advisory Committee*

4.6 Mr Murray continues to serve as a member of the Department of Trade and Industry Advisory Committee on Arbitration Law, which is chaired by Lord Justice Mustill. A member of our legal staff<sup>2</sup> acts as an alternate member. The Committee's first task is to advise the Government regarding the United Nations draft Model Law on International Commercial Arbitration.

### *Scottish Advisory Committee*

4.7 Mr Murray chairs the Scottish Advisory Committee on Arbitration Law which you appointed in 1986.<sup>3</sup> The Committee will advise on the possible implementation in Scotland of the United Nations Model Law on International Commercial Arbitration, and in turn will also examine the system of arbitration in Scotland. A member of our legal staff, Mr J C Mullin, is a member of the Committee, but not in a representative capacity.

### *International Society on Family Law*

4.8 Dr Clive is a member of the Executive Council of the International Society on Family Law.

## Scrutiny of Bills

4.9 We now confine our detailed scrutiny of Bills to those which particularly touch upon areas of law under current examination by us.

## Appendices

4.10 Membership of Working Parties appears in Appendix I. In Appendix II we list reports, consultative memoranda and other documents prepared by the Commission. These lists include certain consultative documents which were given restricted circulation. The extent to which our proposals have been incorporated in legislation is indicated in Appendix III.

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1. Permanent Secretary of the Lord Chancellor's Department.

2. Mr J C Mullin.

3. See 1986 SLT (News) 306.



# Appendix I

## Membership of Working Parties

### *Joint Working Party on Local Legislation*

The Hon Mr Justice Beldam (Chairman)	Law Commission for England and Wales
The Hon Lord Maxwell	Scottish Law Commission
Mr B J Davenport, QC	Law Commission for England and Wales
Mr H W Gamon, CBE MC	Society of Parliamentary Agents
Mr J G S Maclean (as alternate for Lord Maxwell)	Scottish Law Commission
Mr D Rippengal, CB QC	Counsel to Chairman of Committees
Mr R J B Morris <sup>1</sup>	Chief Executive and Town Clerk, Northampton Borough Council
Mr R H Streeten	Law Commission for England and Wales
Mr M J Ware, CB	Solicitor, Department of the Environment
Secretary: Mr A M Rowland, Law Commission for England and Wales	

### *Working Party on Contract Law*

Mr J Murray, QC (Chairman)	Scottish Law Commission
Professor P N Love, CBE	Scottish Law Commission
Professor R Black	University of Edinburgh
Mr M G Clarke	Faculty of Advocates
Dr W W McBryde	University of Aberdeen
Professor Emeritus Sir Thomas Smith QC	Consultant on Obligations
Secretary: Mr J C Mullin, Scottish Law Commission	

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1. Mr Morris became a member of the Joint Working Party on 17 June 1987.

# Appendix II

## 1 Scottish Law Commission—Reports, Etc Published by Her Majesty's Stationery Office

	<i>Commission No</i>	
1965	1	First Programme of Law Reform
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1966	2	First Programme of Consolidation and Statute Law Revision
	3	First Annual Report 1965–66
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1967	4	Proposals for Reform of the Law of Evidence relating to Corroboration
	5	Reform of the Law Relating to Legitimation <i>per subsequens matrimonium</i> (Cmnd 3223)
	6	Divorce—The Grounds Considered (Cmnd 3256)
	6A	*Report on the Consolidation of Certain Enactments relating to Shellfish Fisheries and Shellfish—Sea Fisheries (Shellfish) Bill (Cmnd 3267)
	7	Second Annual Report 1966–67
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1968	8	Second Programme of Law Reform
	9	Third Annual Report 1967–68
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1969	10	*Report on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968—Trustee Savings Banks Bill (Cmnd 4004)
	11	*Report on the Interpretation of Statutes
	12	*Report on Exemption Clauses in Contracts—First Report: Amendments to the Sale of Goods Act 1893
	13	Fourth Annual Report 1968–69
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1970	14	Report on the Companies (Floating Charges) (Scotland) Act 1961 (Cmnd 4336)
	15	Reform of the Law Relating to Prescription and Limitation of Actions
	16	*Report on the Hague Convention on Recognition of Divorces and Legal Separations (Cmnd 4542)
	17	Fifth Annual Report 1969–70
	18	*Report on the Consolidation of Certain Enactments relating to Coinage (Cmnd 4544)
	19	*Report on the Consolidation of Certain Enactments relating to Excise Duties on Mechanically Propelled Vehicles, and to the Licensing and Registration of such Vehicles (Cmnd 4547)
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1971	20	*Report on the Consolidation of Enactments relating to the National Savings Bank (Cmnd 4574)
	21	*Report on the Taxation of Income and Gains derived from Land (Cmnd 4654)
	22	*Report on the Consolidation of Certain Enactments relating to Road Traffic—Road Traffic Bill (Cmnd 4731)
	23	Sixth Annual Report 1970–71
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1972	24	Report on the Consolidation of Certain Enactments relating to Town and Country Planning in Scotland—Town and Country Planning (Scotland) Bill (Cmnd 4949)
	25	Family Law—Report on Jurisdiction in Consistorial Causes affecting Matrimonial Status
	26	*Statute Law Revision—Fourth Report: Draft Statute Law (Repeals) Bill (Cmnd 5108)
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1973	27	Second Programme of Consolidation and Statute Law Revision
	28	Seventh Annual Report 1971–72

\*Produced jointly with the Law Commission for England and Wales.

*Commission*

*No*

- 29 Third Programme of Law Reform  
30 Report on Liability for Antenatal Injury (Cmnd 5371)  
31 Report on the Law relating to Damages for Injuries Causing Death  
32 \*Statute Law Revision—Fifth Report: Draft Statute Law (Repeals) Bill (Cmnd 5493)
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- 1974 33 Eighth Annual Report 1972–73  
34 Report on Presumption of Death  
35 \*Friendly Societies Bill—Report on the Consolidation of the Friendly Societies Acts 1896 to 1971 and certain other enactments relating to the Societies to which those Acts apply (Cmnd 5634)  
36 \*Statute Law Revision—Sixth Report: Draft Statute Law (Repeals) Bill (Cmnd 5792)
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- 1975 37 Ninth Annual Report 1973–74  
38 \*Supply Powers Bill—Report on the Consolidation of Enactments relating to Supply Powers (Cmnd 5850)  
39 \*Exemption Clauses—Second Report  
40 \*Statute Law Revision—Seventh Report: Draft Statute Law (Repeals) Bill (Cmnd 6303)
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- 1976 41 Tenth Annual Report 1974–75  
42 Family Law: Report on Liability for Adultery and Enticement of a Spouse
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- 1977 43 Eleventh Annual Report 1975–76  
44 \*Statute Law Revision—Eighth Report: Draft Statute Law (Repeals) Bill (Cmnd 6719)  
45 \*Report on Liabilities for Defective Products (Cmnd 6831)
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- 1978 46 Third Programme of Consolidation and Statute Law Revision  
47 Twelfth Annual Report 1976–77  
48 \*Statute Law Revision—Ninth Report: Draft Statute Law (Repeals) Bill (Cmnd 7189)  
49 Electricity (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Electricity in Scotland (Cmnd 7178)  
50 Adoption (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Adoption in Scotland (Cmnd 7187)  
51 Damages for Personal Injuries: Report on  
(1) Admissibility of Claims for Services  
(2) Admissible Deductions  
52 Report on the Married Women's Policies of Assurance (Scotland) Act 1880 (Cmnd 7245)  
53 \*Interpretation Bill—Report on Interpretation Act 1889 and Certain other Enactments relating to the Construction and Operation of Acts of Parliament and other Instruments (Cmnd 7235)  
54 \*Customs and Excise Management Bill—Report on the Consolidation of the Enactments relating to the Collection and Management of the Revenues of Customs and Excise (Cmnd 7418)
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- 1979 55 Thirteenth Annual Report 1977–78  
56 Fourteenth Annual Report 1978–79
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- 1980 57 Report on Lost and Abandoned Property  
58 Education (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Education in Scotland (Cmnd 7688)  
59 Report on Powers of Judicial Factors (Cmnd 7904)  
60 Report on Occupancy Rights in the Matrimonial Home and Domestic Violence  
61 Fifteenth Annual Report 1979–80  
62 \*Judicial Pensions Bill—Report on the Consolidation of Certain Enactments relating to Pensions and other Benefits payable in respect of Service in Judicial Office (Cmnd 8097)  
63 \*Statute Law Revision—Tenth Report: Draft Statute Law (Repeals) Bill (Cmnd 8089)
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- 1981 64 Report on Section 5 of the Damages (Scotland) Act 1976  
65 \*Trustee Savings Banks Bill—Report on the Consolidation of the Trustee Savings Banks Acts 1969 to 1978 (Cmnd 8257)  
66 \*Report on the Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Cmnd 8318)  
67 Family Law—Report on Aliment and Financial Provision

\*Produced jointly with the Law Commission for England and Wales.

*Commission*

	<i>No</i>	
	68	Report on Bankruptcy and Related Aspects of Insolvency and Liquidation <sup>1</sup>
	69	Report on the Law of Incest in Scotland (Cmnd 8422)
	70	Sixteenth Annual Report 1980–81
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1982	71	Fourth Programme of Consolidation and Statute Law Revision
	72	Family Law—Report on Financial Provision after Foreign Divorce
	73	Seventeenth Annual Report 1981–82
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1983	74	Prescription and the Limitation of Actions—Report on Personal Injuries Actions and Private International Law Questions
	75	Report on Irritancies in Leases (Cmnd 8760)
	76	Family Law—Report on Outdated Rules in the Law of Husband and Wife
	77	*Medical Bill—Report on the consolidation of the Medical Acts 1956 to 1978 and certain related provisions (Cmnd 8839)
	78	Evidence—Report on Evidence in Cases of Rape and Other Sexual Offences
	79	Obligations—Report on Rectification of Contractual and Other Documents
	80	Report on the Mental Element in Crime (Cmnd 9047)
	81	Eighteenth Annual Report 1982–83
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1984	82	Family Law—Report on Illegitimacy
	83	*Amendment of the Companies Acts 1948–1983—Report under section 116 of the Companies Act 1981 (Cmnd 9114)
	84	*Dentists Bill—Report on the Consolidation of the Dentists Acts 1957 to 1983 (Cmnd 9119)
	85	*Road Traffic Regulation Bill—Report on the Consolidation of the Road Traffic Regulation Act 1967 and certain related enactments (Cmnd 9162)
	86	Family Law—Report on Matrimonial Property
	87	*Further Amendments of the Companies Acts 1948–1983—Report under section 116 of the Companies Act 1981 (Cmnd 9272)
	88	*Private International Law—Report on Recognition of Foreign Nullity Decrees and Related Matters (Cmnd 9341)
	89	Nineteenth Annual Report 1983–84
	90	Report on Breach of Confidence
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1985	91	*Family Law—Report on Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Cmnd 9419)
	92	Obligations—Report on Negligent Misrepresentation
	93	Report on Art and Part Guilt of Statutory Offences (Cmnd 9551)
	94	*Report on the Consolidation of the Housing Acts—Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Cmnd 9515)
	95	Report on Diligence and Debtor Protection
	96	*Private International Law—Polygamous Marriages: Report on Capacity to Contract a Polygamous Marriage and Related Issues (Cmnd 9595)
	97	Obligations—Report on Civil Liability in relation to Animals
	98	Twentieth Annual Report 1984–85
	99	Statute Law Revision—Twelfth Report: Draft Statute Law (Repeals) Bill (Cmnd 9648)
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1986	100	Evidence—Report on Corroboration, Hearsay and Related Matters in Civil Proceedings
	101	Twenty-First Annual Report 1985–86
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1987	102	Report on Child Abduction (Cm 64)
	103	Housing (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Scotland (Cm 104)
	104	*Report on Sale and Supply of Goods (Cm 137)
	105	*Private International Law—Report on Choice of Law Rules in Marriage
	106	Report on Computer Crime (Cm 174)
	107	*Private International Law—Report on the Law of Domicile (Cm 200)

1. This report was not in fact published until 26 February 1982 though submitted on 11 August 1981.

\*Produced jointly with the Law Commission for England and Wales.

## 2 Scottish Law Commission—Consultative memoranda<sup>1</sup> circulated for comment and criticism

- 1966 Memorandum No 1—Probates or Letters of Administration as Links in Title to Heritable Property under the Succession (Scotland) Act 1964  
Memorandum No 2—Expenses in Criminal Cases
- 1967 Memorandum No 3—Restrictions on the Creation of Liferents  
Memorandum No 4—Applications for Planning Permission  
Memorandum No 5—Damages for Injuries Causing Death  
\*Memorandum No 6—Interpretation of Statutes
- 1968 \*Memorandum No 7—Provisional Proposals Relating to Sale of Goods  
Memorandum No 8—Draft Evidence Code—First Part
- 1969 Memorandum No 9—Prescription and Limitation of Actions  
Memorandum No 10—Examination of the Companies (Floating Charges) (Scotland) Act 1961  
Memorandum No 11—Presumptions of Survivorship and Death  
Memorandum No 12—Judgments Extension Acts
- 1970 Memorandum No 13—Jurisdiction in Divorce
- 1971 Memorandum No 14—Remedies in Administrative Law  
\*Memorandum No 15—The Exclusion of Liability for Negligence in the Sale of Goods and Exemption Clauses for the Supply of Services and other Contracts  
Memorandum No 16—Insolvency, Bankruptcy and Liquidation
- 1972 Memorandum No 17—Damages for Injuries Causing Death
- 1974 Memorandum No 18—Liability of a Paramour in Damages for Adultery and Enticement of a Spouse  
Memorandum No 19—Powers of Judicial Factors
- 1975 \*Memorandum No 20—Liability for Defective Products  
Memorandum No 21—Damages for Personal Injuries—Deductions and Heads of Claim
- 1976 Memorandum No 22—Aliment and Financial Provision (2 Vols)  
\*Memorandum No 23—Custody of Children—Jurisdiction and Enforcement within the United Kingdom  
Memorandum No 24—Corporeal Moveables—General Introduction and Summary of Provisional Proposals  
Memorandum No 25—Corporeal Moveables—Passing of Risk and of Ownership  
Memorandum No 26—Corporeal Moveables—Some Problems of Classification  
Memorandum No 27—Corporeal Moveables—Protection of the Onerous *bona fide* Acquirer of Another's Property  
Memorandum No 28—Corporeal Moveables—Mixing, Union and Creation  
Memorandum No 29—Corporeal Moveables—Lost and Abandoned Property  
Memorandum No 30—Corporeal Moveables—Usucapion or Acquisitive Prescription  
Memorandum No 31—Corporeal Moveables—Remedies  
Memorandum No 32—Comments on White Paper '*Our Changing Democracy: Devolution to Scotland and Wales*'  
Appendix—Devolution, Scots Law and the Role of the Commission  
Memorandum No 33—Law of Rights in Security—Company Law—Registration of Charges: Scotland
- 1977 Memorandum No 34—Constitution and Proof of Voluntary Obligations—General Introduction and Summary of Provisional Proposals  
Memorandum No 35—Constitution and Proof of Voluntary Obligations—Unilateral Promises  
Memorandum No 36—Constitution and Proof of Voluntary Obligations—Formation of Contract  
Memorandum No 37—Constitution and Proof of Voluntary Obligations—Abortive Constitution  
Memorandum No 38—Constitution and Proof of Voluntary Obligations—Stipulations in Favour of Third Parties  
Memorandum No 39—Constitution and Proof of Voluntary Obligations—Formalities of Constitution and Restrictions on Proof  
Memorandum No 40—Confidential Information
- 1978 Memorandum No 41—Family Law: Occupancy Rights in the Matrimonial Home and Domestic Violence (2 Vols)  
Memorandum No 42—Defective Consent and Consequential Matters (2 Vols)

1. The publications in this series are now referred to by their full title of '*consultative memorandum*', but in order to avoid undue repetition they will continue to be listed in this Appendix in the form set out.

\*Produced jointly with the Law Commission for England and Wales.

- 1979** Memorandum No 43—Defective Expression and its Correction
- 1980** Memorandum No 44—The Law of Incest in Scotland  
 Memorandum No 45—Time-Limits in Actions for Personal Injuries  
 Memorandum No 46—The Law of Evidence  
 Memorandum No 47—First Memorandum on Diligence—General Issues and Introduction  
 Memorandum No 48—Second Memorandum on Diligence: Poindings and Warrant Sales  
 Memorandum No 49—Third Memorandum on Diligence: Arrestment and Judicial Transfer of Earnings  
 Memorandum No 50—Fourth Memorandum on Diligence: Debt Arrangement Schemes  
 Memorandum No 51—Fifth Memorandum on Diligence: Administration of Diligence
- 1981** Memorandum No 52—Irritancies in Leases
- 1982** Memorandum No 53—Family Law: Illegitimacy  
 Memorandum No 54—Some Obsolete and Discriminatory Rules in the Law of Husband and Wife  
 Memorandum No 55—Civil Liability in relation to Animals  
 \*Memorandum No 56—Polygamous Marriages  
 (Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage)
- 1983** Memorandum No 57—Matrimonial Property  
 \*Memorandum No 58—Sale and Supply of Goods
- 1984** Memorandum No 59—Recovery of Possession of Heritable Property  
 Memorandum No 60—Mobbing and Rioting  
 Memorandum No 61—Attempted Homicide  
 \*Memorandum No 62—Private International Law: Choice of Law in Tort/Delict
- 1985** \*Memorandum No 63—Private International Law: The Law of Domicile  
 \*Memorandum No 64—Private International Law: Choice of Law Rules in Marriage  
 Memorandum No 65—Legal Capacity and Responsibility of Minors and Pupils  
 Memorandum No 66—Constitution and Proof of Voluntary Obligations and the Authentication of Writings  
 Memorandum No 67—Child Abduction
- 1986** Memorandum No 68—Computer Crime  
 Memorandum No 69—Intestate Succession and Legal Rights  
 Memorandum No 70—The Making and Revocation of Wills  
 Memorandum No 71—Some Miscellaneous Topics in the Law of Succession  
 Memorandum No 72—Floating Charges and Receivers  
 Memorandum No 73—Civil Liability—Contribution
- 1987** Memorandum No 74—Prescription and Limitation of Actions (Latent Damage)

### 3 Scottish Law Commission—Other published documents

- 1974** \*Private International Law—Consultative Document on EEC Preliminary Draft Convention on the Law applicable to Contractual and Non-Contractual Obligations
- 1979** Research Paper on the Law of Evidence of Scotland by Sheriff I D Macphail
- 1984** Research Paper on Actions of Ejection and Removing by Mr A G M Duncan
- 1986** Report of Working Party on Security over Moveable Property

### 4 Scottish Law Commission—Consultative documents not published and with restricted circulation

- 1969** Married Women's Policies of Assurance (Scotland) Act 1880—Working Paper
- 1973** Consultation Paper on Divorce for Incurable Insanity
- 1974** Insolvency, Bankruptcy and Liquidation in Scotland—Consultative Paper
- 1978** Consultation Document—Private International Law: Choice of Law Rules in the EEC Draft Insurance Services Directive
- 1979** Consultation Paper—Bankruptcy: Gibson v Hunter Home Designs Ltd  
 Consultative Note on section 5 (6) of the Damages (Scotland) Act 1976

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\*Produced jointly with the Law Commission for England and Wales.

- 1980** Consultation Paper—Prescription and Limitation in Private International Law
- 1981** Consultation Paper—Financial Provision after Foreign Divorce
- 1982** Consultation Paper—Exchange of Standard Term Forms in Contract Formation  
Consultation Paper—Breach of Confidence
- 1983** Consultation Paper—Custody of Children: Jurisdiction and Enforcement within the United Kingdom: Jurisdiction of the Sheriff Court  
Supplementary Consultation Paper—Conflicts of Jurisdiction affecting the Custody of Children  
Consultation Paper—Illegitimacy and the Guardianship Acts  
\*Consultation Paper—Recognition of Foreign Nullity Decrees and Related Matters
- 1984** Consultation Paper—Art and Part Guilt of Statutory Offences
- 1986** Consultation Paper—The Scottish Term and Quarter Days: A Statutory Definition  
Consultation Paper—Termination of Leases: Contracting Out of the Statutory Notice Provisions

## 5 Scottish Law Commission—Unpublished Confidential Documents

- 1975** \*Interim Report on the EEC Preliminary Draft Convention on the Law applicable to Contractual and Non-Contractual Obligations

# Appendix III

## Statutory Provisions relating to the Scottish Law Commission's Proposals

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
<i>(a) Memoranda</i>		
Restrictions on the Creation of Liferents (Memorandum No 3)	5.5.67	Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c 70), section 18.
Applications for Planning Permission (Memorandum No 4)	11.5.67	Town and Country Planning (Scotland) Act 1969 (c 30), section 79.
<i>(b) Reports</i>		
Proposals for Reform of the Law of Evidence Relating to Corroboration (Scot Law Com No 4)	20.4.67	Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c 70), section 9.
Reform of the Law Relating to Legitimation <i>per subsequens matrimonium</i> (Scot Law Com No 5) (Cmnd 3223)	20.4.67	Legitimation (Scotland) Act 1968 (c 22), Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 (c 70), section 5.
Divorce—The Grounds Considered (Scot Law Com No 6) (Cmnd 3256)	12.5.67	Divorce (Scotland) Act 1976 (c 39).
*Sea Fisheries (Shellfish) Bill (Scot Law Com No 6A) (Cmnd 3267)	11.5.67	Sea Fisheries (Shellfish) Act 1967 (c 83).
*Trustee Savings Banks Bill (Scot Law Com No 10)	17.4.69	Trustee Savings Banks Act 1969 (c 50).
*Interpretation of Statutes (Scot Law Com No 11)	11.6.69	None.
*Exemption Clauses in Contracts—First Report: Amendment to the Sale of Goods Act 1893 (Scot Law Com No 12)	18.9.69	Supply of Goods (Implied Terms) Act 1973 (c 13).
The Companies (Floating Charges) (Scotland) Act 1961 (Scot Law Com No 14) (Cmnd 4336)	22.4.70	The Companies (Floating Charges and Receivers) (Scotland) Act 1972 (c 67).
Reform of the Law Relating to Prescription and Limitation of Actions (Scot Law Com No 15)	27.11.70	Prescription and Limitation (Scotland) Act 1973 (c 52).
*Hague Convention on Recognition of Divorces and Legal Separations (Scot Law Com No 16) (Cmnd 4542)	1.12.70	Recognition of Divorce and Legal Separations Act 1971 (c 53).
*Coinage Bill (Scot Law Com No 18) (Cmnd 4544)	26.11.70	Coinage Act 1971 (c 24).
*Vehicles (Excise) Bill (Scot Law Com No 19) (Cmnd 4547)	2.12.70	Vehicles (Excise) Act 1971 (c 10).
*National Savings Bank Bill (Scot Law Com No 20) (Cmnd 4574)	13.1.71	National Savings Bank Act 1971 (c 29).
*Taxation of Income and Gains derived from Land (Scot Law Com No 21) (Cmnd 4654)	23.4.71	In part by section 82 of the Finance Act 1972 (c 41).
*The Road Traffic Bill (Scot Law Com No 22) (Cmnd 4731)	26.7.71	Road Traffic Act 1972 (c 20).
Town and Country Planning (Scotland) Bill (Scot Law Com No 24) (Cmnd 4949)	20.4.72	Town and Country Planning (Scotland) Act 1972 (c 52).

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\*Produced jointly with the Law Commission for England and Wales.



<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
Family Law—Report on Jurisdiction in Consistorial Causes affecting Matrimonial Status (Scot Law Com No 25)	29.9.72	Domicile and Matrimonial Proceedings Act 1973 (c 45).
*Statute Law Revision—Fourth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 26) (Cmnd 5108)	28.9.72	Statute Law (Repeals) Act 1973 (c 39).
Report on Liability for Antenatal Injury (Scot Law Com No 30) (Cmnd 5371)	30.8.73	None required.
Report on the Law Relating to Damages for Injuries causing Death (Scot Law Com No 31)	24.10.73	Damages (Scotland) Act 1976 (c 13).
*Statute Law Revision—Fifth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 32) (Cmnd 5493)	6.12.73	Statute Law (Repeals) Act 1974 (c 22).
Report on Presumption of Death (Scot Law Com No 34)	3.9.74	Presumption of Death (Scotland) Act 1977 (c 27).
*Friendly Societies Bill (Scot Law Com No 35) (Cmnd 5634)	27.6.74	Friendly Societies Act 1974 (c 46).
*Statute Law Revision—Sixth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 36) (Cmnd 5792)	5.12.74	Statute Law (Repeals) Act 1975 (c 10).
*Supply Powers Bill (Scot Law Com No 38) (Cmnd 5850)	6.1.75	Supply Powers Act 1975 (c 9).
*Exemption Clauses—Second Report (Scot Law Com No 39)	2.10.75	Unfair Contract Terms Act 1977 (c 50).
*Statute Law Revision—Seventh Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 40) (Cmnd 6303)	8.12.75	Statute Law (Repeals) Act 1976 (c 16).
Family Law—Report on Liability for Adultery and Enticement of a Spouse (Scot Law Com No 42)	23.6.76	In part by section 10 of the Divorce (Scotland) Act 1976 (c 39).
*Statute Law Revision—Eighth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 44) (Cmnd 6719)	6.1.77	Statute Law (Repeals) Act 1977 (c 18).
*Liability for Defective Products (Scot Law Com No 45) (Cmnd 6831)	15.6.77	None.
*Statute Law Revision—Ninth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 48) (Cmnd 7189)	11.5.78	Statute Law (Repeals) Act 1978 (c 45).
Electricity (Scotland) Bill (Scot Law Com No 49) (Cmnd 7178)	23.5.78	Electricity (Scotland) Act 1979 (c 11).
Adoption (Scotland) Bill (Scot Law Com No 50) (Cmnd 7187)	3.5.78	Adoption (Scotland) Act 1978 (c 28).
Damages for Personal Injuries: Report on (1) Admissibility of Claims for Services (2) Admissible Deductions (Scot Law Com No 51)	18.7.78	Administration of Justice Act 1982 (c 53), Part II.
Report on the Married Women's Policies of Assurance (Scotland) Act 1880 (Scot Law Com No 52) (Cmnd 7245)	27.7.78	Married Women's Policies of Assurance (Scotland) (Amendment) Act 1980 (c 56).
*Interpretation Bill (Scot Law Com No 53) (Cmnd 7235)	8.6.78	Interpretation Act 1978 (c 30).

\*Produced jointly with the Law Commission for England and Wales.

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
*Customs and Excise Management Bill (Scot Law Com No 54) (Cmnd 7418)	7.12.78	Customs and Excise Management Act 1979 (c 2).
Report on Lost and Abandoned Property (Scot Law Com No 57)	16.1.80	In part by the Civic Government (Scotland) Act 1982 (c 45), Part VI.
Education (Scotland) Bill (Scot Law Com No 58) (Cmnd 7688)	2.4.80	Education (Scotland) Act 1980 (c 44).
Report on Powers of Judicial Factors (Scot Law Com No 59) (Cmnd 7904)	3.7.80	Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c 55), section 8.
Report on Occupancy Rights in the Matrimonial Home and Domestic Violence (Scot Law Com No 60)	17.7.80	Matrimonial Homes (Family Protection) (Scotland) Act 1981 (c 59).
*Judicial Pensions Bill (Scot Law Com No 62) (Cmnd 8097)	27.11.80	Judicial Pensions Act 1981 (c 20).
*Statute Law Revision—Tenth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 63) (Cmnd 8089)	10.12.80	Statute Law (Repeals) Act 1981 (c 19).
Report on Section 5 of the Damages (Scotland) Act 1976 (Scot Law Com No 64)	29.4.81	Administration of Justice Act 1982 (c 53), Part II.
*Trustee Savings Banks Bill (Scot Law Com No 65) (Cmnd 8257)	11.6.81	Trustee Savings Banks Act 1981 (c 65).
*Report on the Council of Europe Conventions on Foreign Money Liabilities (1967) and on the Place of Payment of Money Liabilities (1972) (Scot Law Com No 66) (Cmnd 8318)	28.7.81	None required.
Family Law—Report on Aliment and Financial Provision (Scot Law Com No 67)	5.11.81	Family Law (Scotland) Act 1985 (c 37).
Report on Bankruptcy and Related Aspects of Insolvency and Liquidation (Scot Law Com No 68)	26.2.82	Bankruptcy (Scotland) Act 1985 (c 66).
Report on the Law of Incest in Scotland (Scot Law Com No 69) (Cmnd 8422)	23.12.81	Incest and Related Offences (Scotland) Act 1986 (c 36).
Report on Financial Provision after Foreign Divorce (Scot Law Com No 72)	28.10.82	Matrimonial and Family Proceedings Act 1984 (c 42), Part IV.
Prescription and Limitation of Actions—Report on Personal Injuries Actions and Private International Law Questions (Scot Law Com No 74)	10.2.83	Prescription and Limitation (Scotland) Act 1984 (c 45).
Report on Irritancies in Leases (Scot Law Com No 75) (Cmnd 8760)	17.2.83	Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c 73).
Family Law—Report on Outdated Rules in the Law of Husband and Wife (Scot Law Com No 76)	12.5.83	Law Reform (Husband and Wife) (Scotland) Act 1984 (c 15).
*Medical Bill (Scot Law Com No 77) (Cmnd 8839)	24.3.83	Medical Act 1983 (c 54).
Report on Evidence in Cases of Rape and Other Sexual Offences (Scot Law Com No 78)	21.7.83	Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c 73).
Report on Rectification of Contractual and Other Documents (Scot Law Com No 79)	28.7.83	Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c 73).
The Mental Element in Crime (Scot Law Com No 80)	23.11.83	None required.

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\*Produced jointly with the Law Commission for England and Wales.

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
Family Law—Report on Illegitimacy (Scot Law Com No 82)	26.1.84	Law Reform (Parent and Child) (Scotland) Act 1986 (c 9).
*Amendment of the Companies Acts 1948–1983 (Scot Law Com No 83) (Cmnd 9114)	21.12.83	Companies Acts (Pre-Consolidation Amendments) Order 1983 (S.I. 1983/134) Companies Act 1985 (c 6).
*Dentists Bill (Scot Law Com No 84) (Cmnd 9119)	18.1.84	Dentists Act 1984 (c 24).
*Road Traffic Regulation Bill (Scot Law Com No 85) (Cmnd 9162)	21.2.84	Road Traffic Regulation Act 1984 (c 27).
Family Law—Report on Matrimonial Property (Scot Law Com No 86)	21.6.84	Family Law (Scotland) Act 1985 (c 37).
*Further Amendments of the Companies Acts 1948–1983 (Scot Law Com No 87) (Cmnd 9272)	25.6.84	Companies Acts (Pre-Consolidation Amendments) (No 2) Order 1984 (S.I. 1984/1169) Companies Act 1985 (c 6).
*Private International Law—Report on Recognition of Foreign Nullity Decrees and Related Matters (Scot Law Com No 88) (Cmnd 9341)	19.9.84	Family Law Act 1986 (c 55).
Report on Breach of Confidence (Scot Law Com No 90)	20.12.84	None.
*Family Law—Report on Custody of Children: Jurisdiction and Enforcement within the United Kingdom (Scot Law Com No 91) (Cmnd 9419)	15.1.85	Family Law Act 1986 (c 55).
Obligations—Report on Negligent Misrepresentation (Scot Law Com No 92)	24.1.85	Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c 73).
Report on Art and Part Guilt of Statutory Offences (Scot Law Com No 93) (Cmnd 9551)	18.7.85	Criminal Justice (Scotland) Act 1987 (c 41).
*Report on the Consolidation of the Housing Acts—Housing Bill, Housing Associations Bill, Landlord and Tenant Bill (Scot Law Com No 94) (Cmnd 9515)	10.5.85	Housing Associations Act 1985 (c 69).
Report on Diligence and Debtor Protection (Scot Law Com No 95)	14.11.85	In part by Debtors (Scotland) Act 1987 (c 18).
*Private International Law—Polygamous Marriages: Report on Capacity to Contract a Polygamous Marriage and Related Issues (Scot Law Com No 96)	8.8.85	None.
Obligations—Report on Civil Liability in relation to Animals (Scot Law Com No 97)	8.11.85	Animals (Scotland) Act 1987 (c 9).
*Statute Law Revision—Twelfth Report: Draft Statute Law (Repeals) Bill (Scot Law Com No 99) (Cmnd 9648)	14.11.85	Statute Law (Repeals) Act 1986 (c 12).
Evidence—Report on Corroboration, Hearsay and Related Matters in Civil Proceedings (Scot Law Com No 100)	22.5.86	None.
Report on Child Abduction (Scot Law Com No 102) (Cm 64)	12.2.87	None.
Housing (Scotland) Bill (Scot Law Com No 103) (Cm 104)	17.3.87	Housing (Scotland) Act 1987 (c 26)
*Report on Sale and Supply of Goods (Scot Law Com No 104) (Cm 137)	28.5.87	None.

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\*Produced jointly with the Law Commission for England and Wales.

<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
*Private International Law—Report on Choice of Law Rules in Marriage (Scot Law Com No 105)	2.7.87	None.
Report on Computer Crime (Scot Law Com No 106) (Cm 174)	23.7.87	None.
*Private International Law—Report on the Law of Domicile (Cm 200)	3.9.87	None.