

# Scottish Law Commission

(SCOT LAW COM No 146)

## TWENTY-EIGHTH ANNUAL REPORT 1992–93

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 Davidson, *Chairman*,  
Dr E M Clive  
Professor P N Love, CBE  
Sheriff I D Macphail, QC  
Mr W A Nimmo Smith, QC

The Secretary of the Commission is Mr K F Barclay. Its offices are at 140 Causewayside, Edinburgh EH9 1PR.

# SCOTTISH LAW COMMISSION

## Report for the year ended 15th June, 1993

To: The Right Honourable the Lord Rodger of Earlsferry, 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-Eighth Annual Report of the Scottish Law Commission.

(Signed) C K DAVIDSON, *Chairman*  
E M CLIVE  
PHILIP N LOVE  
IAIN MACPHAIL  
W A NIMMO SMITH

KENNETH F BARCLAY, *Secretary*  
4 October 1993

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



## Twenty-Eighth Annual Report

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# Part I Introduction

1.1 During the year covered by this report we published two reports, *Evidence: Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings*<sup>1</sup> and *Report on Evidence: Protection of Family Mediation*.<sup>2</sup> We also completed our *Report on Formation of Contract: Scottish Law and the United Nations Convention on Contracts for the International Sale of Goods*,<sup>3</sup> and, jointly with the Law Commission, a report on *Sale of Goods Forming Part of a Bulk*.<sup>4</sup>

1.2 Although the five substantial reports detailed in our report for 1991–92 still remain unimplemented, we have some satisfaction in recording that in certain areas our recommendations for law reform have met with a definite response. Notably, the Damages (Scotland) Act 1993, which came into force on 18 April 1993, gives effect to proposals contained in our *Report on the Effect of Death on Damages*.<sup>5</sup> In general, the new Act has been well received by the public and by the profession. The main criticism has been that we did not make recommendations for reform of the law on damages which would have taken us beyond the terms of the reference which gave rise to the report.

1.3 We submitted our Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings in August 1992. Reaction to the report was swift. Parts II and III, dealing extensively with statements in business documents and proof of documents and miscellaneous matters, were reproduced, subject to minor changes, in Schedule 3 of the Prisoners and Criminal Proceedings (Scotland) Act 1993, which received Royal Assent on 29 March 1993. The provisions referred to are designed to provide a statutory scheme, comparable in effect to those obtaining in England and Wales for easing the evidential requirements in respect of statements contained in documents. The impetus for giving priority to these matters was supplied by the opinion of the Lord Justice General in the *Lord Advocate's Reference (No 1 of 1992)*.<sup>6</sup> The vehicle for implementation was fortunately to hand in the form of the Prisoners and Criminal Proceedings (Scotland) Bill. That Bill also implemented recommendations made about prints and samples in criminal investigations contained in our *Report on Evidence: Blood Group Tests, DNA Tests and Related Matters*<sup>7</sup> as well as those on evidence of children on commission and the use of screens in taking the evidence of children contained in our *Report on the Evidence of Children and Other Potentially Vulnerable Witnesses*.<sup>8</sup>

1.4 Part IV of the Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings<sup>9</sup> dealt with proof of undisputed facts in criminal proceedings. Essentially, our recommendation was that the prosecution should be empowered to serve on the defence a statement of facts to which the latter would be entitled to submit a counter notice. In the absence of a counter notice then, subject to exceptions designed to protect the accused against the consequences of mistake, the facts in the statement would be taken to have been conclusively proved. The purpose of these recommendations was to save court time and cut down the number of witnesses, especially police witnesses, required to attend court in order to speak to routine or uncontroversial matters. In May 1993 you intimated to the Commission that you were

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1. Scot Law Com No 137.

2. Scot Law Com No 136.

3. Scot Law Com No 144, published 21 July 1993.

4. Law Com No 215, Scot Law Com No 145, published 20 July 1993.

5. Scot Law Com No 134 (March 1992).

6. 1992 SCCR 724, 1992 SLT 1010.

7. Scot Law Com No 120.

8. Scot Law Com No 125.

9. Referred to in para 1.1 above.

not persuaded that the recommendations contained in Part IV of our report would offer any substantial advantage over the existing procedures available in respect of minutes of admissions and agreements under the Criminal Procedure (Scotland) Act 1975. You also indicated that you anticipated that our recommendations, if implemented, would increase the heavy burden already carried by the prosecution service without holding out any clear indication that a substantial return on the use of these efforts would be forthcoming. In June 1993 the Government took this matter further by publishing the report on the Review of Criminal Evidence and Criminal Procedure. Chapter 9 of that report contains a critique of the recommendations made in Part IV of our Evidence Report, and concludes with the opinion that the existing procedures for minutes of agreement and admissions should be quite satisfactory if there were to be a routine pre-trial hearing as an intermediate or first diet at which the agreement of evidence was actively explored and established. We recognise at once that the early disclosure to the defence of the Crown's witness statements offers opportunities for agreeing more facts. Nevertheless, we submit that recommendations contained in Part IV of our report may be of value to those who eventually have to decide upon which system is likely to be most effective in securing proof of undisputed facts without at the same time infringing existing rights of accused persons. We intend to make a further contribution to this debate in our response to the report on the Review of Criminal Evidence and Criminal Procedure.

1.5 Concerns recently expressed about the growth of money laundering and the need to strip profiteers, other than those engaged in drug trafficking, of their illegal gains have caused us to give priority to work on forfeiture and confiscation. Although the provisions of the Drug Trafficking Offences Act 1986 and Part I of the Criminal Justice (Scotland) Act 1987 relating to drug trafficking provide potential models for legislation, we have found this project most demanding. We have attempted to identify and apply consistently principles which we consider to be appropriate to a statutory scheme regulating forfeiture and confiscation on a broad front. Our report, which we consider will merit early consideration, should be completed in the autumn of 1993.

1.6 The remaining matter outstanding under the topic of evidence is that of hearsay arising from prior statements of an accused and of witnesses in criminal proceedings. In this highly controversial area we have for some time been aware of, and have attempted to assess the weight of, arguments in favour of relaxing the hearsay rule based on the improving quality of audio and video recording. While these developments weaken the prime objection to hearsay evidence that it may be inaccurate, the question remains as to whether in criminal proceedings it is safe to add to the number of instances where evidence may not be subject to the test of cross-examination. In this connection we note the recommendation of the Royal Commission on Criminal Justice in England and Wales that hearsay evidence should be admitted to a greater extent than at present, but that before any relaxation of the present rules is sanctioned, the issue should be examined by the Law Commission. We hope to complete work on this project by the spring of 1994.

1.7 Our *Report on Evidence: Protection of Family Mediation*<sup>1</sup> was published in November 1992. We gave priority to this project over other work on evidence because we were persuaded of the benefit of mediation to parties involved in family disputes and of the need to secure so far as possible that all those involved, both mediators and parties, should be able to participate without fear of confidential information being disclosed outside the process.

1.8 Towards the end of the year under review we accepted your proposal that a new draft programme be compiled which would include both unfinished, but still necessary, work deriving from existing programmes, and any new work. This proposal envisages consolidation of the items of work detailed in our earlier programmes along the lines of the Fourth Programme of Law Reform which was submitted to the Lord Chancellor by the Law Commission in 1989. In addition, we have agreed to attribute

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1. Scot Law Com No 136.



time limits for completion to projects undertaken under the new programme and the priorities and resources which we propose to allocate to different elements. In so doing we will follow a practice which has already become routine. Timetables will, however, require to be revised periodically to allow for the disruption caused by taking on urgent references and the appearance of unforeseen difficulties in the course of research and consultation.

1.9 In our last annual report we welcomed the reactivation of the Scottish Select Committee, expressing the hope that this would lead to an early increase in the number of Scottish law reform measures introduced in the House of Commons. In March 1993 we were further encouraged by the proposal contained in the Government's White Paper entitled *Scotland in the Union—A Partnership for Good* to develop an existing, but little used, procedure whereby consideration of the principle of a bill would be undertaken by the Scottish Grand Committee, and the Second Reading in the House would become a formality. We trust that it will prove possible to secure the necessary agreement on all sides to give effect to this procedure, which appears particularly well suited for the consideration of our law reform recommendations.

# Part II Progress of law reform projects

2.1 In this Part of our report we set out in detail the present position in each of our current law reform projects. The main subject headings are presented in alphabetical order. Projects which fall within our published Programmes<sup>1</sup> are denoted by the use of an asterisk.

## Administrative Law

2.2 In our Twenty-Seventh Annual Report<sup>2</sup> we announced our intention to resume work on this topic after a period of some two years during which we monitored the developing case-law in the Court of Session. We hope that a first discussion paper will be ready before Spring 1994.

2.3 It is still our intention to begin with an examination of the rules of title and interest to sue for judicial review under the common law jurisdiction of the Court of Session. These rules in effect control access to the Court and are particularly important in administrative law disputes, where legal protection is frequently sought for novel, collective or diffuse interests of a public nature. The present law is somewhat unclear in its treatment of such interests. Our reference, however, extends to other matters, in particular remedies and damages in administrative law, and we envisage further discussion papers in due course dealing with such topics.<sup>3</sup>

2.4 Throughout the year we have continued to monitor the case-law and are preparing a computer database of judicial review decisions from 1985. We see this as a valuable library resource to support our continuing work in the field, and we would hope to make it available, eventually, for consultation by others concerned with judicial review, for example the Government legal service in Scotland. We have also continued to monitor the progress of administrative law reform in other jurisdictions, notably in England and Wales where the Law Commission recently published a consultation paper.<sup>4</sup> It is our intention to keep in close touch with them, since there are common problems in the two jurisdictions which will require compatible solutions. Finally, we expect to receive very shortly the results of recent research on the impact of decisions of the sheriff on administrative authorities subject to his statutory powers of review.<sup>5</sup> This will be of great interest to us when we come to consider statutory remedies by way of appeal or review before the sheriff or the Court of Session.

## Criminal Law

**General** 2.5 Our work in the criminal law field derives from proposals for law reform projects under section 3(1)(a) of the Law Commissions Act 1965 and references under section 3(1)(e) of that Act.

**Forfeiture and confiscation** 2.6 In our Twenty-Seventh Annual Report<sup>6</sup> we recorded that work was in hand on the preparation of a report on the powers of the courts to order the forfeiture of

1. First Programme, (1965) Scot Law Com No 1; Second Programme, (1968) Scot Law Com No 8; Third Programme, (1973) Scot Law Com No 29; Fourth Programme, (1990) Scot Law Com No 126.

2. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, paras 2.2-2.5.

3. See Twenty-Third Annual Report 1987-88, Scot Law Com No 114, para 2.4, which sets out the reference.

4. Consultation Paper No 126, Administrative Law: Judicial Review and Statutory Appeals.

5. See Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.4.

6. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.7.

instruments used in the commission of crime and the confiscation of the proceeds of crime. We have examined the Report of the Home Office Working Group on Part VI of the Criminal Justice Act 1988 which introduced confiscation orders in relation to a wide range of offences in criminal proceedings in England and Wales, and we have noted the provisions on that subject in the Criminal Justice Bill which is now before Parliament. We hope to submit our report in the autumn of 1993.

## Diligence\*

(Second Programme, Item 8)

2.7 As we mentioned in our Twenty-Seventh Annual Report,<sup>1</sup> work on our various diligence projects has been suspended temporarily because of the diversion of our resources to other more pressing projects. We shall resume work on our outstanding diligence projects as soon as resources permit. In particular we would hope to make some progress on our project on diligence on the dependence since this is an area on which we have received representations during the year.

## Evidence\*

(First Programme, Item 1)

### Hearsay and related matters in criminal proceedings

2.8 As was recorded in our Twenty-Seventh Annual Report,<sup>2</sup> we submitted our *Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings*<sup>3</sup> to you on 27 August 1992 and the report was published on 21 October 1992. The Prisoners and Criminal Proceedings (Scotland) Act 1993, which in Schedule 3 implements many of the recommendations on documentary evidence contained in our report, received Royal Assent on 29 March 1993<sup>4</sup> although Schedule 3 to the Act has not yet been brought into force.<sup>5</sup>

2.9 We also recommended in that report the introduction of a new procedure whereby facts which are not in dispute between the prosecution and the defence may be established at the trial without proof by means of the oral evidence of witnesses. The objectives of our recommendations here are to save time in court and to reduce the inconvenience suffered by witnesses who are required to attend court to prove matters which are not in dispute. The Scottish Office published on 16 June 1993 a Consultation Paper entitled *Improving the Delivery of Justice in Scotland 1993 Review of Criminal Evidence and Criminal Procedure* which deals with this matter and we shall be submitting comments on the consultation paper to the Scottish Office later this year.

2.10 Documentary evidence and proof of undisputed facts were two of the issues considered in our Discussion Paper No 77 on *Criminal Evidence: Affidavit Evidence, Hearsay and Related Matters in Criminal Proceedings*. The matters in this discussion paper on which we have still to report are the extent to which the rule against hearsay might be further modified and, in particular, the extent to which the prior statements of witnesses and accused persons should be admissible. We intend to deal with these matters in a further report which we hope to publish by the spring of 1994.

### Confidentiality in family mediation

2.11 Family mediation has been established throughout Scotland over the past few years on a formal basis under the aegis of Family Mediation Scotland (formerly the Scottish Association of Family Conciliation Services) who have promoted the development of, and co-ordinated, local family mediation services. In April 1990 Rules of Court came into force empowering the courts in actions of custody of, and access to, children to refer the parties to mediation. The use of mediation has led to concern that what the parties to the dispute said and did during mediation could

1. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.29.

2. Para 2.14.

3. (1992) Scot Law Com No 137.

4. 1993 c 9.

5. Schedule 3 to the Act will come into operation on 1 October 1993 (S.I. 1993/2050).

be used as evidence against them if mediation failed to resolve the issues and the case returned to court. This lack of protection was felt to have an inhibiting effect on mediation. In April 1991 we published a discussion paper<sup>1</sup> putting forward various suggestions for dealing with these problems.

2.12 After considering the responses to our discussion paper we prepared and published in November 1992 our *Report on Evidence: Protection of Family Mediation*.<sup>2</sup> In this report we recommend the introduction of new statutory rules to protect and encourage the mediation of family disputes. Effective mediation requires that the parties to the dispute should be able to discuss the issues frankly without fear that what they say may be used against them. The new rules should, we recommend, prevent information obtained from sessions conducted by approved mediators being admissible as evidence in subsequent civil proceedings. An approved mediator would be a person who was an accredited member of an organisation approved by the Lord President of the Court of Session or who had been individually so approved. The new inadmissibility rule should not be absolute, however. In our view it should not apply where other public interests should prevail. Such interests include the public interest in the detection and prosecution of crime and in the protection and welfare of children. The report therefore recommends that mediation information should be admissible in criminal proceedings and in children's hearings and other proceedings relating to the care and protection of children involving a body with statutory duties in that area. It should also be open to the parties to agree that otherwise inadmissible information should be admitted. Where they did so they could give evidence themselves, or require the mediator to give evidence, as to what occurred in a mediation session.

## Family Law\*

(Second Programme, Item 14)

2.13 In our Twenty-Seventh Annual Report<sup>3</sup> we explained that if the recommendations contained in our *Report on Family Law*<sup>4</sup> were implemented in the form of the draft Bill appended to that report almost the whole of Scottish family law would be in modern statutes which would be ripe for consolidation. We also suggested that if any changes which might follow from the reports of the reviews and enquiries then awaited were to be included in such a consolidation the result would be a comprehensive up-to-date Scottish code of child and family law. The Scottish Office has just published a consultation paper, *The Future of Adoption Law in Scotland*, which takes account of some of the matters contained in our *Report on Family Law*. We welcome this step forward.

## Obligations\*

(First Programme, Item 14)

**Corporeal moveables** 2.14 There is no change from the position recorded in our Twenty-Seventh Annual Report and at the present time no further work is being carried out in this area.

**The postal rule** 2.15 We considered this rule in the context of the law on the formation of contracts generally, with particular reference to the provisions in the United Nations Convention on Contracts for the International Sale of Goods. A consultation paper was published in September 1992. This is referred to below under the heading of formation of contract.

**Formation of Contract** 2.16 The Commission has been of the view for many years that there was a need for some reform of the law on the formation of contracts. Earlier consultations in

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1. Confidentiality in Family Mediation (Discussion Paper No 92).

2. Scot Law Com No 136.

3. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, paras 2.17-2.24.

4. (1992) Scot Law Com No 135.

1977 and 1982 had suggested that there would be support for changes which, if implemented, would have made the substance of Scots law in this area virtually identical to the rules on formation of contract in the United Nations Convention on Contracts for the International Sale of Goods. It seemed to the Commission that there would be legal and commercial advantages in using the rules in the Convention, a widely accepted international instrument which already regulates much international trade, as a model. We therefore published in September 1992 a consultation paper on *Formation of Contract: Scottish Law and the United Nations Convention on Contracts for the International Sale of Goods* which sought views on a proposal that certain articles of the Convention should be adopted, with minor modifications, as part of the general law of Scotland relating to the formation of contracts. One result would be the abolition of the postal rule whereby a contract entered into by letter may be held to be concluded when an acceptance of an offer is posted. The response to the consultation paper was favourable and we intend to submit our report to you very soon.<sup>1</sup>

**Law of contract in general**

2.17 We have reviewed the earlier work of the Commission in the area of contract law and have consulted with our colleagues in the Law Commission about the need for, and scope of, future work. We think that there is a need for further work in this area of the law with a view to its systematic reform and restatement. Experience suggests, however, that such work would be better undertaken in projects of manageable size which would ultimately form parts of a coherent whole. We have already made recommendations on the constitution and proof of contracts (among other things) in our *Report on Requirements of Writing*<sup>2</sup> and, as noted above, we will shortly be submitting a report on formation of contract. Other topics which we have identified, or have had brought to our attention, as being in need of early consideration are extrinsic evidence in relation to written contracts, and interest on payments contractually due. We hope to be able to give consideration to these matters in the coming year.

**Rights in security over moveable property**

2.18 We maintain an interest in this matter and, as stated in our Twenty-Seventh Annual Report,<sup>3</sup> we still await the proposed Bill introducing new forms of security over moveables into Scots law.

**Sale and supply of goods**

2.19 As we indicated in our Twenty-Seventh Annual Report,<sup>4</sup> in conjunction with the Law Commission, we embarked on a further consultation exercise in connection with provisional proposals for the reform of section 16 of the Sale of Goods Act 1979. We have examined the possibility of an amendment which would enable a purchaser of a quantity of goods forming part of an identified bulk to acquire a property interest in the goods (by becoming a part-owner of the bulk) before the bulk is actually divided up. At present section 16 usually prevents the purchaser acquiring any property interests in the goods until actual delivery. Our further consultation among English and Scottish insolvency practitioners showed a general desire for a change in the law in this area to give a purchaser of a quantity of goods forming part of an identified bulk an increased facility to acquire a property interest in the goods. Some very helpful criticisms and suggestions were made which we have tried to take fully into account. Our joint report will be submitted to you and to the Lord Chancellor shortly.<sup>5</sup>

**Supersession of missives**

2.20 We intend to take this matter forward along with the matters referred to in paragraph 2.17 above.

**Unjustified enrichment**

2.21 We mentioned in our Twenty-Seventh Annual Report that we have been working on the preparation of three discussion papers in the domain of unjustified enrichment.

1. Report on Formation of Contract: Scottish Law and the United Nations Convention on Contracts for the International Sale of Goods (Scot Law Com No 144), published 21 July 1993.

2. (1988) Scot Law Com No 112.

3. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.27.

4. Para 2.29.

5. Sale of Goods Forming Part of a Bulk (1993), (Law Com No 215) (Scot Law Com No 145), published 20 July 1993.

**Recovery of benefits conferred under error of law**

2.22 We have nearly completed work on the first of these, Discussion Paper No 95 on *The Recovery of Benefits Conferred under Error of Law* which we aim to publish in the autumn of 1993. This will contain provisional proposals to abolish the general rule under which benefits conferred under an error of law are not recoverable. This discussion paper corresponds to Part 2 of the Law Commission's Consultation Paper No 120 on *Restitution of Payments Made Under a Mistake of Law* published in July 1991. Our discussion paper is wider in scope than the Law Commission's Consultation Paper No 120 (which was limited to cash payments) since it will deal with recovery of benefits in kind (eg property transferred and the product of services rendered) as well as benefits in cash. While it may be still technically possible for the House of Lords or a Court of Seven Judges to abrogate the error of law rule,<sup>1</sup> there is high (albeit not conclusive) authority that the rule is too deeply embedded to be uprooted judicially.<sup>2</sup>

**Recovery of ultra vires public authority receipts and disbursements**

2.23 We have done further work on the preparation of the draft discussion paper on ultra vires public authority receipts and disbursements referred to in our Twenty-Seventh Annual Report.<sup>3</sup> Part 3 of the Law Commission's Consultation Paper No 120 provisionally proposed to introduce in English law an automatic right of recovery of payments made to a public authority pursuant to an ultra vires demand. In *Woolwich Equitable Building Society v IRC*,<sup>4</sup> the House of Lords introduced this right in English law, and by implication Scots law, in what Lord Keith of Kinkel called "a very far-reaching exercise of judicial legislation".<sup>5</sup> In that case, Lord Goff of Chieveley encouraged the Law Commission to make recommendations for setting appropriate legislative bounds (eg by way of defences and short limitation periods) to the new rule in order to safeguard public finances.<sup>6</sup> While we think that the result in the *Woolwich* case was just, nevertheless as we indicated in our Twenty-Seventh Annual Report,<sup>7</sup> we have grave reservations about aspects of the *Woolwich* principle, especially its scope. It introduces in the Scots law of repetition for the first time<sup>8</sup> the dichotomy between private and public law which has proved notoriously troublesome in some other areas of the law. We have therefore been considering whether an alternative approach can be devised (eg adding a new ground or grounds to the existing grounds of repetition) which would achieve broadly the same result as the *Woolwich* principle in relation to public sector debts but would apply also to private sector debts. This is clearly an area in which cross-border uniformity is desirable and we have discussed this matter fully with the Law Commission who however, for reasons which we understand, are firmly committed to legislative development of the *Woolwich* principle. We aim to publish a discussion paper on this matter in the next reporting year.

**Further work on unjustified enrichment**

2.24 In our Twenty-Seventh Annual Report,<sup>9</sup> we indicated that we had made progress in preparing a discussion paper on the recovery of money and goods transferred under error (*condictio indebiti*). A full and detailed survey of the *condictio indebiti* will appear as a background research paper in volume 2 of the forthcoming Discussion Paper No 95 referred to at paragraph 2.22 above. We have identified some defects in the law which might require legislative solution. We are considering whether these defects should be addressed in a separate discussion paper or in the discussion paper referred to in paragraph 2.23 above.

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1. There is at present a case before the Court of Session in which that could conceivably be done: *Grant v Royal Bank of Scotland plc* (unreported, Outer House, 2 February 1993) 1993 G W D 11-794. This case, in which Lord Coulsfield reluctantly felt bound to apply the error of law rule, has been reclaimed to the Inner House.

2. See the English case of *Woolwich Equitable Building Society v IRC* [1993] 1 A C 70 (HL affg CA) at p 154 per Lord Keith of Kinkel. Cf Lord Slynn of Hadley (ibid at p 177) stating that the error of law rule was "open to review" by the House of Lords.

3. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.32.

4. [1993] 1 A C 70 (HL affg CA) (E&W).

5. Ibid at p 161.

6. Ibid at pp 176-177..

7. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.32.

8. Unlike English law, Scots law has no doctrine of *colore officii* and the error of law rule applies to officers of the court and public officials receiving payments in the same way as to private citizens.

9. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.33.

2.25 We are pleased to note that after a long period of academic and official neglect, a new and lively interest in the Scots law on unjustified enrichment can be detected.<sup>1</sup> This trend could assist us greatly in performing our statutory duty of keeping this distinctive and important branch of our law under review. To encourage this trend, Strathclyde University Law School and we are organising a one-day seminar to be held in Edinburgh on 23 October 1993 to enable interested persons to discuss papers on various aspects of the subject, including our current work in this area. We are much indebted to Professor John Blackie of Strathclyde University Law School for undertaking the administrative arrangements. We are preparing a paper on the taxonomy of unjustified enrichment to be presented to the seminar. We hope that this seminar will enable us to take soundings on our current work and the possible scope for future legislation in this area.

2.26 In September 1992, Mr N R Whitty, a member of our legal staff, presented a paper on "Indirect Enrichment in Scots Law" to the Restitution Section of the Society of Public Teachers of Law at their annual conference at Oxford University.<sup>2</sup>

### Private International Law\*

(Third Programme, Item 15)

#### Extra-territorial effect of arrestments

2.27 As mentioned in our Twenty-Seventh Annual Report<sup>3</sup> work on this project has been suspended temporarily. It is our intention to resume this work when resources permit.

### Property Law\*

(Fourth Programme, Item 16)

#### Abolition of the feudal system

2.28 We mentioned in our Twenty-Seventh Annual Report<sup>4</sup> that we had commenced analysis of the responses received from consultees to Discussion Paper No 93 on *Abolition of the Feudal System*. The analysis was duly completed and studied by us. Generally, the responses have proved supportive of many of our provisional proposals and helpful in clarifying some issues, identifying issues where further consideration is necessary and identifying new issues which require to be considered. We have also derived assistance from our projects on the law of the tenement, boundary walls and sheltered housing. Work on these matters has identified a number of issues of relevance to this exercise.

2.29 In assessing, in the light of the further work required, the progress likely to be made in the next year, we are mindful that the objective of the exercise, which is to replace the existing system of feudal land tenure with a new, integrated and coherent system of land tenure, is radical and far-reaching in its consequences. It is a topic of considerable importance to many people. It raises a number of difficult issues and involves balancing a number of diverse competing interests. Our recommendations must also take into account the work that we are doing on the law of the tenement, boundary walls and sheltered housing. All these commitments influence and will continue to influence the speed with which the project can be advanced. As matters stand, however, we are hopeful of being in a position to submit our report to you in 1994.

#### Law of the tenement

2.30 As mentioned in our Twenty-Seventh Annual Report,<sup>5</sup> our proposals for the reformulation of the common law rules comprising the law of the tenement, in statutory form, were published in Discussion Paper No 91—*Law of the Tenement*—in December 1990. We also mentioned that we had undertaken a study of the

1. The first monograph on this branch of law was published in 1992: W J Stewart *The Law of Restitution in Scotland*. Several articles on the Scots law have recently appeared in legal periodicals.

2. An amended version of this paper has been accepted by the *Juridical Review* for publication in 1994..

3. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.34.

4. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.35.

5. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.36.

approaches adopted in other jurisdictions to the management of buildings, with a view to recommending a suitable management regime for tenement property in Scotland. We indicated that work on our report and draft Bill was well in hand. In the course of further work on the preparation of our report and draft Bill since last year's annual report, a number of important matters have arisen which have required our consideration. In particular, we decided to undertake a study of the legal position with regard to sheltered housing developments in Scotland, following representations made to us by several correspondents. The Scottish Office had also indicated its interest in our considering the law in this area. This study has been particularly helpful in relation to our proposed recommendations concerning the management of tenement property. Consideration of these other matters has resulted in some delay to our work on this project, although we hope to be able to submit our report to you early in 1994.

**Residential long leases** 2.31 Unfortunately, the need to give priority to other matters has continued to delay work on this project. We hope, however, to resume work shortly with a view to publishing a discussion paper during the early part of 1994. The discussion paper will consider the possibility of tenants of residential property held on certain long leases being given the right to convert their interests into rights of absolute ownership on certain conditions, including payment of compensation. Within that context the subject of leasehold casualties will be considered.

**Boundary walls** 2.32 In our Twenty-Seventh Annual Report<sup>1</sup> we mentioned that we had published a consultation paper in June 1992,<sup>2</sup> inviting comments on the need for a statutory rule allocating rights in, and liability for, mutual boundary walls. The consultation period ended on 15 August 1992 and we have completed our consideration of the responses received. We are now undertaking a review of the approaches adopted in some other jurisdictions, with a view to formulating our recommendations.

## Other Matters

**Multi-party actions** 2.33 We mentioned in our Twenty-Seventh Annual Report<sup>3</sup> that our work on this topic was being taken forward by two approaches. The first was the setting up of a working party to consider whether helpful changes might be made by relatively modest changes in civil court rules and practices and in legal aid arrangements. The Working Party has now completed its report and submitted it to us. The report has a number of useful recommendations and we have copied it to those involved in the running of the courts so that they can consider these recommendations. In due course we shall arrange for the report to be given a wider circulation by publishing it along with our discussion paper. We hope that the report will be a useful contribution to informed public discussion of multi-party litigation.

2.34 The second approach is the consideration of more far-reaching reforms and in particular the possible introduction in Scotland of some form of class or group action procedure. We referred in our Twenty-Seventh Annual Report<sup>4</sup> to the research being carried out by the team from the Department of Law of the University of Dundee. The report of the team's work is expected to be available in the autumn of 1993 and should be of assistance to us in the preparation of our discussion paper. It is hoped that the discussion paper will be issued in late 1993.

**Fiduciary duties and regulatory bodies** 2.35 As we mentioned in our Twenty-Seventh Annual Report<sup>5</sup> we received in April 1990 from the Department of Trade and Industry a reference under section 3(1)(e) of the Law Commissions Act 1965 in the following terms:

“Certain professional and business activities are subject to public law regulation by statutory or self-regulatory control. The Scottish Law Commission is to

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1. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.38.

2. Consultation Paper—Mutual Boundary Walls.

3. Para 2.39.

4. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.41.

5. Para 2.42.



consider the principles which should govern the effect of such controls on the fiduciary and analogous duties of those carrying on such activities, and to make recommendations. The inquiry will consider examples from differing areas of activity but will be with particular reference to financial services.”

The Law Commission received a similar reference, and in consultation with us issued a Consultation Paper No 124 in June 1992. This document with summary has been widely circulated in England and Scotland to those having an interest in this area. We have obtained comments and are analysing them before attempting to arrive at an agreed approach for adoption in a joint report.

**Judicial factors, powers of attorney and guardianship of the incapable (Fourth Programme, Item 17)**

2.36 Within this item we have given priority to the management of the personal welfare and financial affairs of adults who lack the mental capacity to look after themselves. As we mentioned in our Twenty-Seventh Annual Report a wide-ranging Discussion Paper, No 94 *Mentally Disabled Adults: Legal Arrangements for Managing their Welfare and Finances* was published in September 1991. Among the many topics discussed in the paper were:

- (a) Personal guardianship of mentally disabled adults. Among other possibilities the replacement of tutors-dative and guardians appointed under the Mental Health (Scotland) Act 1984 by a new, more flexible, system of personal guardianship was proposed.
- (b) Medical treatment and non-therapeutic research involving mentally disabled patients and the removal of organs for transplantation from them.
- (c) Management of the financial affairs and property of mentally disabled adults. A new system of financial managers with powers tailored to the individual adult's situation was proposed to replace curators bonis. Other matters considered were trusts for administration, management by hospital authorities of in-patients' money, obtaining access to bank accounts and similar items without legal proceedings, and public management of the estates of mentally disabled adults.
- (d) Powers of attorney enabling an attorney to make decisions in both the personal welfare and financial fields after the granter's incapacity. Various safeguards were suggested to minimise abuse.
- (e) Which body should have jurisdiction to appoint people to deal with the personal welfare and financial affairs of mentally disabled people? Courts, new tribunals, or new mental health hearings along the lines of children's hearings were considered.
- (f) Capacity of mentally disabled people to make financial or personal welfare decisions, make a will or get married. The effect of the appointment of a guardian, curator or financial manager on such capacity was considered.

2.37 Following publication of the discussion paper representatives of the Commission took part in many meetings and seminars. These events were organised by some of the bodies involved with the mentally disabled. We are very grateful to those bodies for their efforts. The meetings and seminars enabled us to gain valuable comments from those with practical experience of the problems and also gave us an opportunity to publicise our proposals more extensively and explain the thinking behind them.

2.38 Nearly 100 responses to our discussion paper have been received. We are grateful to all the organisations and individuals who submitted comments. We have had several meetings with representatives of the Law Commission for England and Wales which is engaged in a similar exercise. We intend to co-operate closely with them for the remaining stages of this project. The preparation of a report is well under way and we hope to submit it to you some time next year.

2.39 During the preparation of our report we have considered the question of interim or emergency powers available for the protection of the mentally disabled. At present regional (and islands) councils, the Mental Welfare Commission for Scotland and the police have statutory powers which can be used to inspect premises where a mentally disordered person is, gain access to and examine the person, and

remove him or her to a place of safety. These statutory powers have been subject to some criticism. Our present exercise provides an opportunity to review and reformulate them. It is vital that emergency protective powers are comprehensive and easy to operate since inability to intervene may lead to very serious consequences. But statutory provisions on emergency powers must strike a balance between intervention and respect for the liberties and wishes of the mentally disabled and others involved in their care. We have therefore decided to consult further on this topic and have prepared a short discussion paper which is to be published in the near future.<sup>1</sup>

**Personal injuries: damages**

2.40 In our Twenty-Seventh Annual Report<sup>2</sup> we recorded that we had submitted our *Report on The Effect of Death on Damages*<sup>3</sup> to the Secretary of State for Scotland on 30 January 1992. We are now pleased to note that the report has been implemented, almost without change, by the Damages (Scotland) Act 1993 which came into force on 18 April 1993. It is most encouraging for our work that this important and much-needed reform has been carried through so swiftly. We also wish to record our appreciation of the work of the departmental officials who were responsible for implementing the report. They kept us informed throughout, although technically the Commission's role is finished once a report has been submitted. We think that in this case the continuing discussion between officials and our legal staff was particularly helpful.

2.41 The only departure from the recommendations in our report is that a retrospective provision has been incorporated in the Act. This makes available the benefit of certain provisions in the Act where a victim of wrongful injury has died on or after 16 July 1992, the date on which the relative Bill was introduced into the House of Lords.

2.42 We have yet to decide whether further work on damages is required in Scotland. In our Twenty-Seventh Annual Report<sup>4</sup> we drew attention to the new programme of the Law Commission in this area. Since then we have taken note of their work on structured settlements.<sup>5</sup> It is our intention to consider these developments in consultation with the appropriate Government departments.

## Statute Law

**Consolidation**

2.43 As in our previous annual reports we report 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**

2.44 Work on the consolidation of the Crofting legislation has now been completed. Two Bills have been introduced and are presently before Parliament:

Crofters Bill  
Scottish Land Court Bill.

2.45 Progress is being made on the consolidation of the Scottish Town and Country Planning legislation which will result in four separate statutes. It is hoped that these Bills with suitable Law Commission recommendations will be introduced in 1994. As indicated in our Twenty-Seventh Annual Report work on the consolidation of the Criminal Procedure legislation is presently in abeyance. Work is proceeding on the legislation relating to the National Health Service (Scotland) and Lands Clauses.

**(b) United Kingdom and Great Britain consolidations**

2.46 During the course of our reporting year the following consolidation measure was enacted:

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1. Discussion Paper No 96; Mentally Disordered and Vulnerable Adults: Public Authority Powers, published August 1993.  
2. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, paras 2.47-2.51.  
3. Scot Law Com No 134.  
4. Twenty-Seventh Annual Report 1991-92, Scot Law Com No 139, para 2.51.  
5. Consultation Paper No 125, Structured Settlements and Interim and Provisional Damages: A Consultation Paper..

Clean Air Act 1993 (c 11).

The following consolidation measures were introduced and are presently before Parliament:

Pension Schemes<sup>1</sup>  
Health Service Commissioners.<sup>2</sup>

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

Armed Forces  
Friendly Societies  
Merchant Shipping  
Value Added Tax  
Vehicles Excise Duty.

**Statute law revision** 2.48 On 6 April 1993 we submitted to you the *Fourteenth Report on Statute Law Revision*,<sup>3</sup> a joint report of the two Law Commissions. The accompanying Statute Law (Repeals) Bill was introduced into Parliament on 27 April 1993 and is expected to receive Royal Assent during the current Parliamentary session.

2.49 A further report, which we hope will also be a joint report,<sup>4</sup> is now being prepared dealing exclusively with local legislation. It is expected that the relative Statute Law (Repeals) Bill will be introduced into Parliament during next session. Thereafter work will resume on the Commissions' continuing programme of statute law revision.

**Local legislation** 2.50 As recorded in previous annual reports,<sup>5</sup> we continue to support the Law Commission where we can in the work of producing a Chronological Table of Local and Personal Acts. While much remains to be done, it is hoped that the Table will be available in the near future.

2.51 Partly as a result of research in connection with the Chronological Table and partly as a result of recent work on statute law revision,<sup>6</sup> the Law Commission hope to introduce into Parliament during next session a Statute Law (Repeals) Bill dealing exclusively with local legislation. We hope to be able to make a contribution to that Bill, if staff resources permit. Our intention is to allocate one or more of our temporary research assistants during the summer months to work on material for the Bill under the supervision of the member of our legal staff who is responsible for statute law revision.

**Statute law database** 2.52 In our Twenty-Seventh Annual Report<sup>7</sup> we noted the progress which has been made by the Lord Chancellor's Department towards establishing a computer database of United Kingdom legislation. The project has continued to make progress and we hope to have the facility available to us during 1994. But much still depends on the final cost of the system to the users and we are awaiting information from the Department about this.

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1. Report on the Consolidation of the Legislation relating to Pension Schemes (Law Com No 212) (Scot Law Com No 142).  
2. Report on the Consolidation of the Legislation relating to the Health Service Commissioners (Law Com No 213) (Scot Law Com No 143).  
3. Statute Law Revision: Fourteenth Report: Draft Statute Law (Repeals) Bill, Law Com No 211, Scot Law Com No 140, published on 27 April 1993.  
4. See paras 2.51–2.52.  
5. See, for example, Twenty-Sixth Annual Report 1990–91, Scot Law Com No 131, para 2.57.  
6. See paras 2.48–2.49.  
7. Twenty-Seventh Annual Report 1991–92, Scot Law Com No 139, paras 2.60–2.61.

# Part III    General

3.1 In Part II of this report we have described the progress of the law reforms projects on which we are presently working. While these projects take up most of the time of Commissioners and staff, they do not give a full picture of our work and there are a number of other calls on our time which may not be reflected in the publication of our discussion papers and reports but which add appreciably to our total workload. In this part of the report we mention these matters briefly.

## Advice to government departments etc

3.2 As has been mentioned in previous reports, our views are sought by government departments on a number of matters. This falls within the functions of the Commission as provided in section 3(1)(e) of the Law Commissions Act 1965 (c 22). Sometimes this is done as part of a formal consultation exercise undertaken by a department. On other occasions our advice is sought informally and even confidentially. We also, where appropriate, respond to consultation exercises carried out by other bodies where we are of the view that to do so would help promote the cause of law reform.

## Proposals for law reform

3.3 During the year we received from members of the public and organisations proposals for the reform in particular areas of law. Consideration of these matters often requires some preliminary research. In this connection we carried out work on aspects of the law of bankruptcy. We also sought comments from the Scottish Consumer Council and from the Law Society of Scotland on the possibility of a Civil Justice Review for Scotland but after a detailed consideration of the matter we took the view that the need for such a comprehensive and wide-ranging review as was proposed was not made out. We also took the view that even if such a review was to take place it would not be appropriate for the Commission to take the lead.

## Departmental committees and other bodies

3.4 Our Commissioners and legal staff are from time to time appointed to serve on government departmental committees and as members of other bodies concerned with the development and reform of the law. Our Chairman is a member of the Advisory Committee on Statute Law which advises the Lord Chancellor in connection with his responsibilities in relation to the revision, modernisation and production of the Statute Book to ensure that it is in readily accessible form so that citizens may know by what laws they are bound.

## Conferences, seminar, etc

3.5 During the year Commissioners and legal staff of the Commission participated in a number of conferences and seminars. We consider such participation to be an important part of our work in enabling us to keep the law under review and to assist us in obtaining comments on our published discussion papers.

3.6 Among the conferences and seminars at which we were represented were:

Society for the Reform of Criminal Law, Criminal Appeals, London, June 1992.  
Restitution Section of Society of Public Teachers of Law, Oxford, September 1992.  
Quantum of Damages, Edinburgh, November 1992.  
Developments in Family Law, Glasgow, November 1992.  
Third Conference on Research in the Scottish Courts, Edinburgh, January 1993.  
Conveyancing: What Changed in 1992, Edinburgh, January 1993.  
Parents and Children: Rights and Protection, Oxford, March 1993.  
Developments in Civil Evidence, Edinburgh, February 1993.  
Protecting Children, Protecting Rights?, Edinburgh, March 1993.  
Children's Evidence in the Courts, Glasgow, March 1993.  
The Forensic Role of DNA Profiling in Scotland, April 1993.  
European Community Law, New Remedies in Scots Law, Edinburgh, May 1993.  
10th Commonwealth Law Conference and meeting of Law Reform Agencies, Cyprus, May 1993.  
French Law, Recent Developments, Contract, Edinburgh, June 1993.  
Commonwealth Magistrates' and Judges' Associations, Judicial Seminar, Edinburgh, June 1993.  
Scottish Child Law Centre Conference, Edinburgh, June 1993.

## Consultation

3.7 We continue to have close co-operation with the Law Commission for England and Wales. During the year under review we have continued to work together on various matters, including fiduciary duties and regulatory bodies,<sup>1</sup> the reform of section 16 of the Sale of Goods Act 1979<sup>2</sup> and on unjustified enrichment: recovery of benefits conferred under error.<sup>3</sup> We are grateful to the Law Commission for continuing to keep us informed of the progress of its work on topics of interest to us and for affording us the opportunity of commenting from time to time on the possible implications for Scotland of certain of its projects.

3.8 We have maintained our contacts with law reform organisations in various parts of the world and continue to exchange papers with them. We also have met with representatives of some of these organisations during their visits to this country.

## Media

3.9 On publication of our reports and the issue of our discussion papers it is normal for the Commission to issue a news release and to hold a news conference. Such news conferences are normally well attended by members of the media, including representation from the daily and weekly newspapers and radio and television. During the year under review we have had good coverage of the news conferences we held and we are most grateful to the members of the media for attending and for reporting on the matters covered at the conferences. Commissioners and staff members have also given interviews to the press and have participated in radio and television programmes. We are also grateful to the coverage given to our work by the editors of various legal journals. The publicity given continues to result in an increased demand from members of the public and individual members of the legal profession for copies of our discussion papers.

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1. See para 2.35.

2. See paras 1.1, 2.19.

3. See paras 2.22–2.24.

# 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 Davidson, <i>Chairman</i>	(Full-time)
Dr E M Clive	(Full-time)
Professor P N Love, CBE	(Part-time)
Sheriff I D Macphail, QC	(Full-time)
Mr W A Nimmo Smith, QC	(Part-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 summer vacation of 1992 we employed five honours graduates in law to assist with our research work. Our complement of non-legal staff remains at eleven. We wish to thank them all for their assistance.

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 K F Barclay

### *Grade 5 Solicitors*

Mr R Bland  
Mr N R Whitty

### *Other members of legal staff*

Mr J M Dods  
Mr J G S Maclean  
Dr D I Nichols  
Mr J B St Clair  
Mrs S Sutherland  
Mrs G B Swanson

### *Librarian*

Mr N G T Brotchie

### *Chief Clerk*

Mr J Dodson

4.4 During part of the year under review we had part-time assistance from Mr Alastair Brown of the Crown Office. We are grateful to the Crown Agent, Mr J D Lowe, for this and to Mr Brown himself for his knowledge and practical experience.

4.5 We record with regret the impending retirement of Mr J Fleming Wallace QC who, over the past 14 years, has given outstanding service as our resident Parliamentary Draftsman. We are particularly grateful to Mr Wallace for his perception in identifying and giving effect to Commission policy by framing draft Bills in felicitous and clear language. In his place we look forward to testing a new arrangement

whereby a Bill team of Parliamentary Draftsmen based in the Lord Advocate's Department in London, will be available, when required, in Edinburgh to deal with detailed points arising out of the Commission's instructions on Bills.

## The legal and other professions, etc

4.6 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 held 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 assisted us in various ways.

4.7 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.

4.8 Membership of working parties appears in the Appendix I. The Working Party on Contract Law did not meet during the year under review but it has since met and we are grateful to the non-Commission members for giving their time to assist us in our consideration of relevant matters. In Appendix II we list reports, consultative memoranda/discussion papers 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 by legislation is indicated in Appendix III.

# Appendix I

## Membership of Working Party

### *Working Party on Contract Law*

Dr E M Clive (Chairman)  
Professor R Black, QC  
Mr M G Clarke, QC  
Professor W W McBryde

Secretary: Mr J B St. Clair, Scottish Law Commission

Scottish Law Commission  
University of Edinburgh  
Faculty of Advocates  
University of Dundee



# 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
1966	2 3	First Programme of Consolidation and Statute Law Revision First Annual Report 1965–66
1967	4 5 6 6A 7	Proposals for Reform of the Law of Evidence relating to Corroboration Reform of the Law Relating to Legitimation <i>per subsequens matrimonium</i> (Cmnd 3223) Divorce—The Grounds Considered (Cmnd 3256) *Report on the Consolidation of Certain Enactments relating to Shellfish Fisheries and Shellfish—Sea Fisheries (Shellfish) Bill (Cmnd 3267) Second Annual Report 1966–67
1968	8 9	Second Programme of Law Reform Third Annual Report 1967–68
1969	10 11 12 13	*Report on the Consolidation of the Trustee Savings Banks Acts 1954 to 1968—Trustee Savings Banks Bill (Cmnd 4004) *Report on the Interpretation of Statutes *Report on Exemption Clauses in Contracts—First Report: Amendments to the Sale of Goods Act 1893 Fourth Annual Report 1968–69
1970	14 15 16 17 18 19	Report on the Companies (Floating Charges) (Scotland) Act 1961 (Cmnd 4336) Reform of the Law Relating to Prescription and Limitation of Actions *Report on the Hague Convention on Recognition of Divorces and Legal Separations (Cmnd 4542) Fifth Annual Report 1969–70 *Report on the Consolidation of Certain Enactments relating to Coinage (Cmnd 4544) *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)
1971	20 21 22 23	*Report on the Consolidation of Enactments relating to the National Savings Bank (Cmnd 4574) *Report on the Taxation of Income and Gains derived from Land (Cmnd 4654) *Report on the Consolidation of Certain Enactments relating to Road Traffic—Road Traffic Bill (Cmnd 4731) Sixth Annual Report 1970–71
1972	24 25 26	Report on the Consolidation of Certain Enactments relating to Town and Country Planning in Scotland—Town and Country Planning (Scotland) Bill (Cmnd 4949) Family Law—Report on Jurisdiction in Consistorial Causes affecting Matrimonial Status *Statute Law Revision—Fourth Report: Draft Statute Law (Repeals) Bill (Cmnd 5108)
1973	27 28 29	Second Programme of Consolidation and Statute Law Revision Seventh Annual Report 1971–72 Third Programme of Law Reform

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

*Commission*

*No*

- 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)
- 
- 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)
- 
- 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)
- 
- 1976**
- 41 Tenth Annual Report 1974–75
- 42 Family Law: Report on Liability for Adultery and Enticement of a Spouse
- 
- 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)
- 
- 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)
- 
- 1979**
- 55 Thirteenth Annual Report 1977–78
- 56 Fourteenth Annual Report 1978–79
- 
- 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)
- 
- 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)

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

*Commission*

	No	
	67	Family Law—Report on Aliment and Financial Provision
	68	Report on Bankruptcy and Related Aspects of Insolvency and Liquidation
	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
<hr/>		
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)

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

*Commission**No*

	108	Report on the Scottish Term and Quarter Days (Cm 208)
	109	Twenty-Second Annual Report 1986–87
	110	Report on the Legal Capacity and Responsibility of Minors and Pupils
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<b>1988</b>	111	Court of Session Bill (Cm 315)
	112	Report on Requirements of Writing
	113	*Road Traffic Bill, Road Traffic Offenders Bill, Road Traffic (Consequential Provisions) Bill—Report on the Consolidation of Certain Enactments relating to Road Traffic (Cm 390)
	114	Twenty-Third Annual Report 1987–88
	115	Report on Civil Liability—Contribution
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<b>1989</b>	116	Report on Reform of the Ground for Divorce
	117	*Statute Law Revision—Thirteenth Report: Draft Statute Law (Repeals) Bill (Cm 671)
	118	Report on Recovery of Possession of Heritable Property
	119	*Extradition Bill—Report on the Consolidation of Legislation Relating to Extradition (Cm 712)
	120	Evidence: Blood Group Tests, DNA Tests and Related Matters
	121	*Opticians Bill—Report on the Consolidation of Legislation Relating to Opticians (Cm 738)
	122	Report on Prescription and Limitation of Actions (Latent Damage and Other Related Issues) (Cm 790)
	123	Twenty-Fourth Annual Report 1988–89
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<b>1990</b>	124	Report on Succession
	125	Report on the Evidence of Children and Other Potentially Vulnerable Witnesses
	126	Fourth Programme of Law Reform
	127	Report on the Passing of Risk in Contracts for the Sale of Heritable Property
	128	Twenty-Fifth Annual Report 1989–90
	129	*Private International Law—Choice of Law in Tort and Delict
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<b>1991</b>	130	*Rights of Suit in Respect of Carriage of Goods by Sea
	131	Twenty-Sixth Annual Report 1990–91
	132	*Social Security Contributions and Benefits Bill, Social Security Administration Bill, Social Security (Consequential Provisions) Bill—Report on the Consolidation of the Legislation relating to Social Security (Cm 1726)
<hr/>		
<b>1992</b>	133	Report on Statutory Fees for Arrestees
	134	Report on The Effect of Death on Damages (Cm 1848)
	135	Report on Family Law
	136	Report on Evidence: Protection of Family Mediation
	137	Evidence: Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings
	138	*Clean Air Bill—Report on the Consolidation of Certain Enactments relating to Clean Air (Cm 2085)
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<b>1993</b>	139	Twenty-Seventh Annual Report 1991–92
	140	*Statute Law Revision: Fourteenth Report—Draft Statute Law (Repeals) Bill (Cm 2176)
	141	Crofters (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Crofting (Cm 2187)
	142	*Pension Schemes Bill—Report on the Consolidation of the Legislation relating to Pension Schemes (Cm 2184)
	143	*Health Service Commissioners Bill—Report on the Consolidation of the Legislation relating to the Health Services Commissioners
	144	Report on Formation of Contract: Scottish Law and the United Nations Convention on Contracts for the International Sale of Goods
	145	*Sale of Goods Forming Part of a Bulk

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

## 2 Scottish Law Commission—Consultative memoranda/Discussion papers circulated for comment and criticism

		<i>No of Resulting Report</i>
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	11
1968	*Memorandum No 7—Provisional Proposals Relating to Sale of Goods	12
	Memorandum No 8—Draft Evidence Code—First Part	
1969	Memorandum No 9—Prescription and Limitation of Actions	15
	Memorandum No 10—Examination of the Companies (Floating Charges) (Scotland) Act 1961	14
	Memorandum No 11—Presumptions of Survivorship and Death	34
	Memorandum No 12—Judgments Extension Acts	
1970	Memorandum No 13—Jurisdiction in Divorce	25
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	39
	Memorandum No 16—Insolvency, Bankruptcy and Liquidation	68
1972	Memorandum No 17—Damages for Injuries Causing Death	31 and 64
1974	Memorandum No 18—Liability of a Paramour in Damages for Adultery and Enticement of a Spouse	42
	Memorandum No 19—Powers of Judicial Factors	59
1975	*Memorandum No 20—Liability for Defective Products	45
	Memorandum No 21—Damages for Personal Injuries—Deductions and Heads of Claim	51
1976	Memorandum No 22—Aliment and Financial Provision (2 Vols)	67
	*Memorandum No 23—Custody of Children—Jurisdiction and Enforcement within the United Kingdom	91
	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 <i>bona fide</i> Acquirer of Another's Property	
	Memorandum No 28—Corporeal Moveables—Mixing, Union and Creation	
	Memorandum No 29—Corporeal Moveables—Lost and Abandoned Property	57
	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	144
	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	112
	Memorandum No 40—Confidential Information	90

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

	<i>No of Resulting Report</i>
<b>1978</b>	
Memorandum No 41—Family Law: Occupancy Rights in the Matrimonial Home and Domestic Violence (2 Vols)	60
Memorandum No 42—Defective Consent and Consequential Matters (2 Vols)	92
<b>1979</b>	
Memorandum No 43—Defective Expression and its Correction	79
<b>1980</b>	
Memorandum No 44—The Law of Incest in Scotland	69
Memorandum No 45—Time-Limits in Actions for Personal Injuries	74
Memorandum No 46—The Law of Evidence	78 and 100
Memorandum No 47—First Memorandum on Diligence: General Issues and Introduction	95
Memorandum No 48—Second Memorandum on Diligence: Poindings and Warrant Sales	95
Memorandum No 49—Third Memorandum on Diligence: Arrestment and Judicial Transfer of Earnings	95
Memorandum No 50—Fourth Memorandum on Diligence: Debt Arrangement Schemes	95
Memorandum No 51—Fifth Memorandum on Diligence: Administration of Diligence	95
Memorandum No 52—Irritancies in Leases	75
<b>1982</b>	
Memorandum No 53—Family Law: Illegitimacy	82
Memorandum No 54—Some Obsolete and Discriminatory Rules in the Law of Husband and Wife	76
Memorandum No 55—Civil Liability in relation to Animals	97
*Memorandum No 56—Polygamous Marriages (Capacity to Contract a Polygamous Marriage and the Concept of the Potentially Polygamous Marriage)	96
<b>1983</b>	
Memorandum No 57—Matrimonial Property	86
*Memorandum No 58—Sale and Supply of Goods	104
<b>1984</b>	
Memorandum No 59—Recovery of Possession of Heritable Property	118
Memorandum No 60—Mobbing and Rioting	
Memorandum No 61—Attempted Homicide	
*Memorandum No 62—Private International Law: Choice of Law in Tort/Delict	129
<b>1985</b>	
*Memorandum No 63—Private International Law: The Law of Domicile	107
*Memorandum No 64—Private International Law: Choice of Law Rules in Marriage	105
Memorandum No 65—Legal Capacity and Responsibility of Minors and Pupils	110
Memorandum No 66—Constitution and Proof of Voluntary Obligations and the Authentication of Writings	112
Memorandum No 67—Child Abduction	102
<b>1986</b>	
Memorandum No 68—Computer Crime	106
Memorandum No 69—Intestate Succession and Legal Rights	124
Memorandum No 70—The Making and Revocation of Wills	124
Memorandum No 71—Some Miscellaneous Topics in the Law of Succession	124
Memorandum No 72—Floating Charges and Receivers	
Memorandum No 73—Civil Liability—Contribution	115
<b>1987</b>	
Memorandum No 74—Prescription and Limitation of Actions (Latent Damage)	122
<b>1988</b>	
Discussion Paper No 75—The Evidence of Children and Other Potentially Vulnerable Witnesses	125
Discussion Paper No 76—The Ground for Divorce—Should the law be changed?	116
Discussion Paper No 77—Criminal Evidence—Affidavit Evidence, Hearsay and Related Matters in Criminal Proceedings	137
Discussion Paper No 78—Adjudications for Debt and Related Matters	
Discussion Paper No 79—Equalisation of Diligences	
Discussion Paper No 80—Blood Group Tests, DNA Tests and Related Matters	120
<b>1989</b>	
Discussion Paper No 81—Passing of Risk in Contracts for the Sale of Land	127
Discussion Paper No 82—Forfeiture and Confiscation	
Discussion Paper No 83—Bulk Goods: Section 16 of the Sale of Goods Act 1979 and Section 1 of the Bills of Lading Act 1855	130
Discussion Paper No 84—Diligence on the Dependence and Admiralty Arrestments	
<b>1990</b>	
Discussion Paper No 85—Family Law: Pre-Consolidation Reform	135
Discussion Paper No 86—The Effects of Cohabitation in Private Law	135
Discussion Paper No 87—Statutory Fees for Arrestees	133

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

	<i>No of Resulting Report</i>
Discussion Paper No 88—Parental Responsibilities and Rights, Guardianship and the Administration of Children's Property	135
Discussion Paper No 89—The Effect of Death on Damages	134
Discussion Paper No 90—Extra-Territorial Effect of Arrestments and Related Matters	
Discussion Paper No 91—Law of the Tenement	
<b>1991</b> Discussion Paper No 92—Confidentiality in Family Mediation	136
Discussion Paper No 93—Property Law—Abolition of the Feudal System	
Discussion Paper No 94—Mentally Disabled Adults—Legal Arrangements for Managing their Welfare and Finances	

### 3 Scottish Law Commission—Other published documents

<b>1974</b>	*Private International Law—Consultative Document on EEC Preliminary Draft Convention on the Law applicable to Contractual and Non-Contractual Obligations
<b>1979</b>	Research Paper on the Law of Evidence of Scotland by Sheriff I D Macphail
<b>1984</b>	Research Paper on Actions of Ejection and Removing by Mr A G M Duncan
<b>1986</b>	Report of Working Party on Security over Moveable Property
<b>1988</b>	Research Paper on Evidence from Children—Alternatives to In-court Testimony in Criminal Proceedings in the United States of America by Kathleen Murray
<b>1991</b>	Report on the Effect of the Execution of Diligence on the Operation of Prescription.

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

<b>1969</b>	Married Women's Policies of Assurance (Scotland) Act 1880—Working Paper
<b>1973</b>	Consultation Paper on Divorce for Incurable Insanity
<b>1974</b>	Insolvency, Bankruptcy and Liquidation in Scotland—Consultative Paper
<b>1978</b>	Consultation Document—Private International Law: Choice of Law Rules in the EEC Draft Insurance Services Directive
<b>1979</b>	Consultation Paper—Bankruptcy: <i>Gibson v Hunter Home Designs Ltd</i> Consultative Note on section 5 (6) of the Damages (Scotland) Act 1976
<b>1980</b>	Consultation Paper—Prescription and Limitation in Private International Law
<b>1981</b>	Consultation Paper—Financial Provision after Foreign Divorce
<b>1982</b>	Consultation Paper—Exchange of Standard Term Forms in Contract Formation Consultation Paper—Breach of Confidence
<b>1983</b>	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
<b>1984</b>	Consultation Paper—Art and Part Guilt of Statutory Offences
<b>1986</b>	Consultation Paper—The Scottish Term and Quarter Days: A Statutory Definition (Resulting Report—Scot Law Com No 108) Consultation Paper—Termination of Leases: Contracting Out of the Statutory Notice Provisions

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

- 1990** Arrestments of Ships Securing Claims against Demise Charterers  
Consultation Paper—The Effect of the Execution of Diligence on the Operation of Prescription
- 1991** \*Supplementary Consultation Paper—Sale of Goods Forming Part of a Bulk
- 1992** \*Consultation Paper on Formations of Contract: Scottish Law and the United Nations Convention on Contracts for the International Sale of Goods (Resulting Report Scot Law Comm No 144)

## 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

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



# 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).

\*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).

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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>
*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 required.
*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	Civil Evidence (Scotland) Act 1988 (c 32).
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	Foreign Marriage Amendment Act 1988 (c 44).
Report on Computer Crime (Scot Law Com No 106) (Cm 174)	23.7.87	In part by Computer Misuse Act 1990 (c 18).
*Private International Law—Report on the Law of Domicile (Scot Law Com No 107) (Cm 200)	3.9.87	None.
Report on the Scottish Term and Quarter Days (Scot Law Com No 108) (Cm 208)	29.10.87	Term and Quarter Days (Scotland) Act 1990 (c 22).
Report on the Legal Capacity and Responsibility of Minors and Pupils (Scot Law Com No 110)	17.12.87	Age of Legal Capacity (Scotland) Act 1991 (c 50).
Court of Session Bill—Report on the Consolidation of Certain Enactments and the Repeal of Other Enactments relating to the Court of Session (Scot Law Com No 111) (Cm 315)	9.3.88	Court of Session Act 1988 (c 36).
Report on Requirements of Writing (Scot Law Com No 112)	13.7.88	None.
*Road Traffic Bill, Road Traffic Offenders Bill, Road Traffic (Consequential Provisions) Bill—Report on the Consolidation of Certain Enactments relating to Road Traffic (Scot Law Com No 113) (Cm 390)	6.6.88	Road Traffic Act 1988 (c 52), Road Traffic Offenders Act 1988 (c 53), Road Traffic (Consequential Provisions) Act 1988 (c 54).
Report on Civil Liability Contribution (Scot Law Com No 115)	15.12.88	None.
Report on Reform of the Ground for Divorce (Scot Law Com No 116)	28.4.89	None.
*Statute Law Revision Thirteenth Report—Draft Statute Law (Repeals) Bill (Scot Law Com No 117) (Cm 671)	4.5.89	Statute Law Repeals Act 1989 (c 43)
Report on Recovery of Possession of Heritable Property (Scot Law Com No 118) (Cm 724)	25.8.89	None.
*Extradition Bill—Report on the Consolidation of Legislation Relating to Extradition (Scot Law Com No 119) (Cm 712)	27.6.89	Extradition Act 1989 (c 33)
Evidence: Blood Group Tests, DNA Tests and Related Matters (Scot Law Com No 120)	19.10.89	Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c 40) and the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c 9).
*Opticians Bill—Report on the Consolidation of Legislation Relating to Opticians (Scot Law Com No 121) (Cm 738)	11.7.89	Opticians Act 1989 (c 44)
Report on Prescription and Limitation of Actions (Latent Damage and Other Related Issues) (Scot Law Com No 122) (Cm 790)	12.10.89	None.
Report on Succession (Scot Law Com No 124)	25.1.90	None.
Report on the Evidence of Children and Other Potentially Vulnerable Witnesses (Scot Law Com No 125)	15.2.90	Partial implementation in the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c 40) and Prisoners and Criminal Proceedings (Scotland) Act 1993 (c 9).
Report on the Passing of Risk in Contracts for the Sale of Heritable Property (Scot Law Com No 127)	18.10.90	None.
*Private International Law—Choice of Law in Tort and Delict (Scot Law Com No 129)	12.12.90	None.

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<i>Titles of relevant Memoranda and Reports</i>	<i>Date of Publication</i>	<i>Statutory Provision</i>
Report on the Effect of the Execution of Diligence on the Operation of Prescription (see Appendix II, 3 (not published by HMSO))	20.3.91	None.
*Rights of Suit in Respect of Carriage of Goods by Sea (Scot Law Com No 130)	20.3.91	Carriage of Goods by Sea Act 1992 (c 50).
*Social Security Contributions and Benefits Bill, Social Security Administration Bill, Social Security (Consequential Provisions) Bill—Report on the Consolidation of the Legislation relating to Social Security (Scot Law Com No 132) (Cm 1726)	5.11.91	Social Security Contributions and Benefits Act 1992 (c 4); Social Security Administration Act 1992 (c 5); Social Security (Consequential Provisions) Act 1992 (c 6).
Report on Statutory Fees for Arrestees (Scot Law Com No 133)	23.1.92	None.
Report on The Effect of Death on Damages (Scot Law Com No 134) (Cm 1848)	5.3.92	Damages (Scotland) Act 1993 (C 5).
Report on Family Law (Scot Law Com No 135)	7.5.92	None.
Report on Evidence: Protection of Family Mediation (Scot Law Com No 136)	4.11.92	None.
Report on Documentary Evidence and Proof of Undisputed Facts in Criminal Proceedings (Scot Law Com No 137)	21.10.92	Partial implementation in Prisoners and Criminal Proceedings (Scotland) Act 1993 (c 9)
*Clean Air Bill—Report on the Consolidation of Certain Enactments relating to Clean Air (Scot Law Com No 138)	10.11.92	Clean Air Act 1993 (c 11).
*Statute Law Revision: Fourteenth Report (Scot Law Com No 140)	27.4.93	
Crofters (Scotland) Bill—Report on the Consolidation of Certain Enactments relating to Crofting (Scot Law Com No 141)	24.5.93	
*Pension Schemes Bill—Report on the Consolidation of the Legislation relating to Pension Schemes (Scot Law Com No 142)	11.5.93	
*Health Service Commissioners Bill—Report on the Consolidation of the Legislation relating to the Health Service Commissioners (Scot Law Com No 143)	15.6.93	
Report on Formation of Contract: Scottish Law and the United Nations Convention on Contracts for the International Sale of Goods (Scot Law Com No 144)	22.7.93	None.
*Sale of Goods Forming Part of a Bulk (Scot Law Com No 145)	21.7.93	None.



